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Please Note the Journal's New Address

FROM this date the address of the AMERICAN BAR ASSOCIATION JOURNAL will be "Room 1119 The Rookery Building, No. 209 S. La Salle St., Chicago, Ill.," instead of "Room 1612 First National Bank Building, No. 38 S. Dearborn St.," as formerly. Members and others who have occasion to write to the JOURNAL will confer a favor and also avoid unnecessary delay in the delivery of their communications by making a note of the new address. The change has been contemplated for some time. The new quarters furnish some needed additional conveniences, not the least of which is immediate proximity to the office of the Secretary of the Association. Our new telephone number is Harrison 9640.

Headquarters for the Association

A SUB-COMMITTEE of the Executive Committee "on a Survey of the Methods of Operation of the American Bar Association," of which Hon. Charles S. Whitman of New York is chairman and Hon. William C. Kinkead of Cheyenne and Hon. Gurney E. Newlin of Los Angeles are members, recently held a meeting in Chicago. One of the questions which it has been considering has been the location of the headquarters of the Association in one place. The sub-committee will make its report to the Executive Committee, which will act upon it and presumably transmit it to the Association for action. No official statement has been made as to its conclusions, but it is known that at the Chicago meeting it decided to recommend the location of the headquarters in that city, as on the whole more suitable than any of the other places suggested. At a dinner given by the Chicago Bar Association in honor of Mr. Whitman, at which the other two members of the committee were present as especially invited guests, Judge George T. Page, of the Federal Circuit Court of Appeals, a former President of the American Bar Association, made the interesting announcement that the members of the sub-committee "have determined that it shall be their unanimous report—not for the good of Chicago but for the good of the American Bar Association and for the good of the American lawyer—that the Association itself come here." The announcement was received with enthusiasm by the gathering.

Judge Parker's Sudden Death

NEWS of the regrettable and sudden death on May 10 of Hon. Alton B. Parker, formerly President of the American Bar Association, was received too late for any adequate notice in the May issue. We trust in a later number to present an appreciation of his long and eminently useful career. Judge Parker was stricken while riding in his automobile in Central Park. He had recently recovered from an attack of bronchial pneumonia which presumably had weakened his heart. Judge Parker was serving as the Chief Justice of the New York Court of Appeals when nominated by the Democratic National Convention in 1904 for President. At the conclusion of the campaign he returned to the practice and from that time to his death was one of the leading figures of the New York Bar. Judge Parker was born in Cortland, New York, May 14, 1852, and was married in 1873 to Miss Mary Louise Schoonmaker. She died in 1917. Several years later he married Miss Amelia Day Campbell, who survives him. Judge Parker was one of the band of pilgrims to the shrine of the Common Law in 1924 and during the trip presented an appearance of unusually robust health.

Research and Law Reform

RESEARCH as an eminently practical means of making the law and its administration efficient is the central idea of the recent statement authorized by Dean Roscoe Pound of Harvard University, in connec-

tion with the plans of that institution to raise a large endowment fund. The statement follows in part:

"It is the purpose of the Harvard Law School to make an appeal to the American people for $5,000,000. This money will be used partly to increase and improve the facilities of the school for doing its present work of professional training; but chiefly to provide five new Research Professorships and increased facilities for research.

"What research has done for the prevention and cure of disease, what it has done for engineering, and what it has done for the technical arts, it may well do for the law. The call for research in law is especially strong. Lawyers, courts, legislatures, the administration of justice in general and the administration of criminal justice in particular, are subjects of serious criticism on the part of the lay public. The strain upon law due to the changes in modern life, and the resulting delays, uncertainties and miscarriages demand a service from legal scholars in national law schools that can be performed by no one else.

"Legal research, in order to achieve enduring results, must be carried on in institutions free from politics by men of training, ability and scientific attitude, with permanent tenure, able to work continuously, to deal with problems as a whole, and to survey a wide field extending beyond the limitations of jurisdictions, localities and parties. Such conditions can exist only in endowed national law schools dealing with American law as a whole.

"One subject in which research is needed is criminal law, admittedly the weakest point in our policy. No subject of research affords greater possibilities. But the administration of criminal justice is involved, in part at least, in a wider problem of enforcement of law, in which research is urgently called for. One side of law enforcement has become of especial importance in this country, namely, application of law by administrative boards and commissions. . . .

"We may not rely upon laymen to make the administration of justice in this country equal to its task under the conditions of today, nor may we hope to effect what is needed through the incidental efforts of practicing lawyers. The work of the practitioner of today is too specialized, and he is too much engrossed with the management of enterprises and the practical guidance of business to be in a position to contribute more than an occasional ingenious detail to the solution of our problems.

"Bar associations are accomplishing much. But they can do no more than organize the efforts of practicing lawyers, and are subject to the same limitations. Nor can judges do much for us. The dockets of courts are too heavy. The view of the problems of justice which any court may get is too fragmentary, and its experience is too specialized or too local to make it possible for courts to do for our time the sort of thing they did so well in the formative era of American legal institutions.

"American law schools can render a real service, not merely to the profession, but to the economic and business interests of the country, and to every citizen, by carrying on the scientific investigation on which the law reforms of the future must go forward."

In this connection it may be added that Wilson M. Powell, of New York, chairman of the executive committee in charge of the campaign for this law school fund, announced early this month that the General Education Board had made an appropriation of $750,000 towards certain items upon the school's program, on condition that the school obtain for such items from other sources a total of $2,200,000.

Supplementing the Canons of Ethics

THE Committee on Supplementing the Canons of Professional Ethics held five successive sessions on April 26 and 27 in Washington, D. C. Thirteen of its fifteen members attended. A committee of the Commercial Law League of America, empowered by that body to confer on the subject, was heard, as were also representatives of various other interests. A number of suggested additional canons upon subjects which have received the consideration of various committees

on Legal Ethics were discussed. Some were tentatively approved, others were rejected as not requiring adoption by the Association, others were referred to sub-committees for further report. The committee determined to report progress at the next annual meeting in Denver and to recommend its continuance. The members present were: Edward A. Harriman, Washington, D. C.; Henry W. Jessup, New York City; Stiles W. Burr, St. Paul, Minn.; Frank W. Grinnell, Boston, Mass.; Edward S. Rogers, Chicago, Ill.; Thomas W. Davis, Wilmington, N. C.; Henry Upson Sims, Birmingham, Ala.; George Wentworth Carr, Philadelphia, Pa., and the following members *ex officio*, of the standing committee of the Association on Professional Ethics and Grievances: Walter F. Taylor, New York City; Thomas Francis Howe (chairman), Chicago, Ill.; John Hinkley, Baltimore, Md.; Earle W. Evans, Wichita, Kan., as well as the Chairman of the Special Committee.

Errata

In the March, 1926, issue of the JOURNAL there were two errors which we desire to correct: In the article, "Some Judah P. Benjamin Anecdotes," the authorship of a life of Benjamin is mistakenly ascribed to "Justice" Pierce Butler instead of to Prof. Pierce Butler. In the review of Mr. Warren's book, "Congress, the Constitution and the Supreme Court," by Prof. Edward S. Corwin of Yale, the statement is made that "first and last some thirty-five proposals of amendment have been made on the floor of Congress." The number should be thirty-five hundred.

AMERICAN LAW INSTITUTE HOLDS FOURTH ANNUAL MEETING

Impressive Gathering of Leading Lawyers, Jurists and Legal Scholars at Washington—Tentative Drafts of Parts of the Restatement of the Law of Contracts, Torts, Conflict of Laws and Agency Presented and Discussed—The Proposed Code of Criminal Procedure—Presidential Address by Mr. Wickersham—Director Lewis' Report—Mr. Root and Chief Justice Taft Address Institute—Reception by President and Mrs. Coolidge at White House

THE American Law Institute held its fourth annual meeting at Washington on April 29 and 30 and May 1, in the assembly hall of the United States Chamber of Commerce Building. About three hundred leaders in the profession—State and Federal judges, practicing lawyers, legal scholars and teachers—were present and participated in the work. The sessions were all well attended and the greatest interest was manifested at all times. The immediate object of the meeting was to consider further tentative Restatements of the law of Contracts, Torts and Conflicts of Laws and the first tentative draft of the law of Agency. The Reporters in these respective subjects made preliminary statements as to the work submitted in their respective fields, after which the tentative drafts were read section by section from the platform by the presiding officer and then criticised by those present. Frequent suggestions for changes in the direction of further clarification were made from the floor. Notes were made by the Reporters of these suggestions and they will be given due consideration in the process of perfecting the drafts.

Bar's Aid Is Enlisted

Perhaps the outstanding feature of the meeting, apart from the work done, was the growing evidence that the project of the American Law Institute is rapidly enlisting the aid of the Bar of the Nation. The Institute largely grounds its hopes of ultimate success on the cooperation of the American Bench and Bar. Fortunately these expectations appear to be well founded. The Bar as a whole is realizing more and more the great part it is called on to play in this important business. The fact that about three hundred members of the profession are willing to leave their regular occupations and make an expensive journey to Washington at their own cost to help in the work of Restatement is in itself no insignificant indication of attitude. But to this is to be added the further fact, as brought out in Director Lewis' report, that the State and the larger local Bar Associations are manifesting an increasing interest in the project. Fourteen associations have appointed special committees to cooperate with the Institute. The Secretaries of a number of State Bar Associations, following a plan suggested by the Secretary of the Illinois organization, have distributed over three thousand copies of the tentative drafts of Restatements already printed to members applying for them. These drafts are furnished by the Secretaries at a price which simply covers the cost of printing and distribution.

Nor should the fact, mentioned both in President Wickersham's address and the report of Director Lewis, that teachers of law are beginning to make use of the tentative drafts in class room work, be overlooked in this connection. Such use obviously offers a valuable opportunity to familiarize the Bar of the future with the undertaking. There should also come from the teachers using the drafts in this fashion many valuable suggestions, springing from the doubts and questions of bright pupils. Director Lewis remarked that many law professors had learned a great deal of law from just this source and there was no reason to assume that the American Law Institute's work might not also profit from it. This aspect of the undertaking merely illustrates the fact that the work of the Institute is to be hammered out on every available anvil, no matter how large or how small. And when it is hammered out, it will be the work of the profession as a whole, in the sense that the entire bar of the country will have helped make it what it is. Thus at the outset is removed the danger of having the Restatement presented as an unfamiliar and academic thing to the profession. It will come, on the contrary, as a friend and a familiar, in which each lawyer who takes the trouble to furnish comment or criticism of the tentative drafts as they are issued may properly feel he has had some part.

Restatements Presented and Discussed

Restatement No. 2 on Contracts, presented at this meeting, contained fifty-six sections with comment, and covered the subjects of Consideration, Formation of Formal Contracts and Joint Contractual Obligations and Rights. It was prepared by the Reporter, Samuel Williston, with the aid of the following advisers: Arthur L. Corbin, Dudley O. McGovney, Herman Oliphant, William H. Page and William E. McCurdy, Assistant. Restatement No. 2 on Conflict of Laws contained ninety-two sections, with comment, and was prepared by Joseph H. Beale, the Reporter, and Austin W. Scott, Associate Reporter, with the aid of the following advisers: Harry A. Bigelow, Joseph W. Bingham, John G. Buchanan, Amistead M. Dobie, Frederick F. Faville, Herbert F. Goodrich, Monte M. Lemann, Ernest G. Lorenzen, William E. Mikell and William H. Page. It was divided into the following parts: Introduction, Jurisdiction, and Jurisdiction of Courts. Restatement No. 2 of the Law of Torts contained thirty sections with comment, and was prepared by Francis H. Bohlen, Reporter, with the aid of the following advisers: Herbert F. Goodrich, Charles M. Hepburn, Warren A. Seavey, Young B. Smith and Edward S. Thurston. Restatement No. 1 on Agency contained 140 pages and 155 sections with comment, and was the work

of Floyd R. Mechem, Reporter, with the aid of the following advisers: Edwin R. Keedy, Richard R. Powell, Harry S. Richards and Warren Leavey. The Restatement was subdivided as follows: Definitions and Distinctions; Acts for which Agency May Be Created; Competency of Parties; Appointment of Agents and Servants and the Evidence thereof; Appointment of Agents by other Agents and the Delegation of Authority; Ratification.

As his subject was taken up each Reporter went to the platform, prepared to answer questions, discuss objections, note suggestions for future consideration, and justify the tentative draft section by section. To the layman the discussion might have seemed at times mere verbal quibbling. He would not have realized that the essence of the work is the choice of the right word and phrase, not to express some vague general idea, but to compress and hold within bounds at once slender and firm the results of long years and of many decisions of the law. An English statesman once said that he was never at a loss for "a" word but his great rival was never at a loss for "the" word. It is the search for "the" word, "the" phrase, "the" statement on which the Institute is engaged and not for mere words, phrases and sentences. The expert knows the difficulty. No wonder that Mr. Mechem, the Reporter for Agency, humorously exclaimed: "O, that mine enemy would write a definition!" or that Mr. Williston, Reporter for Contracts, was compelled to call the attention of critics at times to the fact that the change in definition suggested sounded well enough, but unfortunately left out certain cases which had to be gotten in. The character of the discussion renders a report difficult, even though there were space to present it. It is therefore necessary to content ourselves with the statement that the drafts, already carefully considered by various agencies, were again considered section by section as fully as the occasion permitted, and that doubtless as a result of the meeting there will come to many members valuable afterthoughts of which they will give the Reporters the benefit.

Two incidents of the meeting deserve special mention. During the first day's proceedings Mr. Root entered the Hall and took a seat in the rear. President Wickersham, however, spied him out and called him to the platform. The Institute rose to its feet and cheered the veteran leader of the Bar, who spoke briefly by way of acknowledging the tribute. He said that he felt that, since the meeting three years ago, there had been a favorable answer to what was then the great question as to the organization and work of the Institute—whether it could be gotten beyond the few who had a natural predisposition towards quasi-public service and be made to bite into the Bar as a whole. "I think that question has been definitely answered now," he said; "I think it has been carried to the point where it is biting into the body of the Bar of the United States. It is enlisting an interest and activity which is necessary for the accomplishment of this very serious and difficult work and which it was doubtful whether we could secure."

Mr. Root Speaks to Institute

Mr. Root then spoke of the necessity of organization as the only means of dealing with our modern complicated life, and added:

"Now, it seems to me that the Bar—which was so scattered and had so little cohesion, so little common sentiment—that the Bar is getting itself into that kind of organization, with a common purpose, which is going immensely to increase its powers, both for the specific field of work we are undertaking here, and, hereafter, for the accomplishment of all the things necessary for the maintenance of our system of law, our free institutions and our order and liberty.

"I think the bearing of this institute goes far beyond the re-statement we are making here. I think it is the inauguration in America of a Bar as distinguished from a multitude of Bars. I think we are taking the early steps in the creation of a great power in the preservation of all we hold dearest and most valuable for our country; and I feel greatly cheered and pleased beyond expression at watching carefully the progress in this work, both from you members of this institute and the members of the Bar outside of the institute, in all parts of the country."

Chief Justice Taft Brings Greetings

On the following day Chief Justice Taft entered the hall and was also received with enthusiasm as he was called to the platform. He spoke briefly, as follows:

"I came just to register the presence of our court and to have you know that we are humbly waiting for your assistance as the body which probably needs that assistance most; merely to greet you in your good work, to felicitate you upon your very effective organization and plan of work; to felicitate you on the fact that you have here and have had here to give you his blessing and his real assistance, not only the leader, but the Nestor and the Ulysses of the American Bar.

"There is no man in this country who, in a professional or other way, is more fertile in expedients for the good of the country and the good of the work which the Bar may do than Elihu Root.

"I have in my hands something that feels as heavy as an opinion from our court and I hope that in your consideration you may avoid the soporific effect that is sometimes trying in the tribunal with which I am somewhat familiar. But I do not intend to delay you in your deliberations, but only to renew my earnest greetings and to say that to those of us who live in Washington it is most helpful to have an infusion of real altruism in this atmosphere.

"My blessing goes with you. Good-bye."

Presidential Address Reviews Work of Institute

The Institute was called to order at 10 A. M. on Thursday by Hon. George W. Wickersham, who proceeded to deliver the presidential address. After paying a tribute to Judge Cardozo, who presided at the last annual meeting in his absence, and a mention of the reasons that had led to the formation of the Institute, he continued:

"The work of this Institute was planned with careful regard to the limitations of the problem we should undertake, and we have studiously refrained, except in one instance, to be referred to later, from being drawn outside of our chosen sphere of activity. There are many other things which must be done before the state of our law and its enforcement becomes what it should be. Much is being done by other agencies than ours. The Federal judicial forces have been mobilized and the administration

of Federal justice made more efficient through the operations of the Judicial Council presided over by the Chief Justice of the United States, under legislation largely promoted by him. In a number of States, Judicial Councils have been formed pursuant to law, following the suggestion which our honored Vice President, Judge Cardozo, made a few years ago in his now famous address. 'A Ministry of Justice': Councils charged by law with the duty of systematic study and criticism of the functioning of the judiciary of the respective states, and the recommendation of improvements which may be effected by legislation or rules of Court. The better expression of statutory law by means of official legislative drafting bureaus is evident in the improved clarity of some of our modern state legislation. Little progress unfortunately seems to have been made in the direction of improving the educational qualifications required for admission to the Bar. . . .

"In our own chosen field, the year past has been one of great activity, as you will readily perceive when you come to consider the volume of material which has been sent out for your consideration in advance of this meeting and which you will be invited to discuss. If, as Judge Cardozo said at the last annual meeting, there had then been 'at least a brave beginning,' of our undertaking, this year it may truthfully be said there has been a notable advance. The Director will give you the details of the number of meetings of the Reporters with their critics and of the extent and nature of the work done.

"When the Council assembled on December 16th last for a three-day session, it found itself confronted with an undertaking of no small magnitude, and of no easy despatch, in the consideration of the fruits of the labors of the scholars who for a twelve-month previously had been toiling in the field assigned to them by the Council's directions. During those three days, however, the members of the Council discussed with such fullness as time would permit, the reports in the fields of Contracts, Torts, Agency and Conflict of laws, respectively, and finally, in order that the work of the Reporters and their advisers might not unduly suffer from criticism of the moment, the Council referred each one of the reports under consideration back to the Reporter for discussion with a sub-committee of three members of the Council, with instructions to report to the Executive Committee, which was authorized to transmit the tentative drafts to the members of the Institute for consideration at this annual meeting, with a view to suggestion and criticism by them. Accordingly, a Committee on Torts was named, composed of the Honorable George W. Wheeler, as Chairman, and Messrs. Owen J. Roberts and James P. Hall, as members; a Committee on Agency, of which Major Edgar B. Tolman was Chairman, and Messrs. William Browne Hale and Henry M. Bates members; a Committee on Conflict of Laws, of which the Honorable George W. Alter was Chairman and the Honorable Benjamin N. Cardozo and Honorable Arthur P. Rugg members, and a Committee on Contracts, of which the Honorable Nathan Matthews was Chairman and the Honorable Learned Hand and James Byrne, Esq., members. The reports which have been sent to the members of the Institute for their consideration and for discussion at this meeting have been transmitted through the Executive Committee after conferences between the Reporters and some of their advisers and these respective subcommittees. The material which is submitted to you therefore represents the combined efforts and the matured comment of a number of minds, and it is to be hoped that in their criticism members of the Institute will have in mind the fact that every sentence, indeed, every word in these various drafts is the result of careful, critical and analytical thought and deliberate studied expression.

Council's Decision as to Treatises

"In connection with the consideration of the various draft restatements, the Council gave very careful thought to the question whether or not the restatements should be accompanied by 'treatises.' in the accepted sense of that term, or by such brief commentaries as might appear to be necessary for the elucidation of the text of the restatements. Bearing in mind that the great objective of the work is the clarification and simplification of the law, it would seem most undesirable that the restatement should be merely in the nature of a syllabus, to be accompanied by bulky treatises, or text books. On the other hand, we should recall the admonition given in the report of the Committee on the Establishment of a Permanent Organization for the Improvement of the Law,* that the statement of principles to be put forth should be much more complete than that found in European continental codes.

"The American courts, that report pointed out, 'though always in the position of being able to change and modify the common law, practically, because of the detail in which the law is set forth in prior decisions and its respect for such precedent, has usually a far narrower field' than the European courts 'for the exercise of discretion.' The authors of the report expressed the belief that 'any restatement of our law to be of practical use should follow this characteristic of our law, and, therefore, the principles of law should be set forth with a fullness made possible by the care with which rules pertaining to the application of more general principles have been considered in the decisions of our courts.' If this counsel as to the nature of the restatement be followed—as I believe it has been followed in the drafts before us—it would seem that to accompany the restatements with bulky text books, would to a large extent impair, if not wholly undo, one object of the restatement, namely, the reduction of the bulk of literature necessary to be consulted by the practicing lawyer. Without, however, determining this question as an ultimate matter, the Council did decide that in submitting the tentative drafts of restatements to the members of the Institute and the annual meetings, there should be transmitted with the restatements, or as nearly thereafter as practical, such Commentaries as may facilitate the consideration of the restatements, and that where there is a conflict in the decisions under a section of the Restatement, there shall be furnished with it an explanation showing where the actual difference exists in the authorities, and giving the reasons

*Committee on the Establishment of a Permanent Organization for the Improvement of the Law, in its report to the meeting in Washington on February 23, 1923, when the American Law Institute was formed.

for the adoption of the section as expressed in the Restatement.

Law Schools and Bar Associations

"Among the most interesting results of the work of the Institute up to the present time has been the increased interest in its progress on the part of the various State and local bar associations. Of equal, or perhaps even greater importance, is the increasing interest manifested in our efforts by the Law Schools. Drafts of the Restatements are being sent to the Law Schools for study by teachers and scholars. By these means we are securing the interest in our work on the part of the men to whom largely we must look for its future accomplishment. Coincidently, some of our leading Law Schools are organizing for advanced study and research, and our Institute may anticipate greater and more valuable cooperation with them through such better, more scientific organization. One scarcely can exaggerate the value of such assistance. It is the logical development of the preliminary studies and action by the associated Law Schools, out of which came the inspiration for our work.

"Far sooner than the founders of the Institute had anticipated, an active, widespread, critical interest in our undertaking is being exhibited in all parts of the country, and from many sources are coming increasingly valuable suggestions which encourage and perhaps justify the hope that our accomplished work may meet with the uniform approval of the profession at large. At all events, it is presently true that it has greatly stimulated interest in the study of the common law and in the effort to unify its expression in the different jurisdictions.

Code of Criminal Procedure

In one respect only has the Institute ventured outside of the line of work to which it dedicated itself on its organization, and that is in undertaking the preparation of a model code of criminal procedure. Those of you who attended the last annual meeting will recall the report submitted to that meeting that the Laura Spelman Rockefeller Foundation had generously appropriated the sum of $20,000 annually for three years to the Institute to meet the expenses of the preparation of a Code of laws and court rules relating to criminal procedure. You will recall the reports made to the Council by the Committee appointed to make a survey and statement of the defects of criminal justice, of which the Honorable Herbert S. Hadley was Chairman, and Messrs. William E. Mikell and John G. Milburn members. That report led to the appropriation just mentioned, and the action of the Council of the Institute regarding the matter reported to the Institute at its last annual meeting. The Council on May 2, 1925, authorized the Executive Committee to invite additional persons to act with them in preparing a plan of work for the preparation of the proposed model code, and action having been taken under this resolution, a further report was prepared by this Committee, which is printed in the third volume of the Proceedings of the Institute, at pages 499-524, which was unanimously adopted by the members of the Committee whose names are signed thereto. The resolutions recommended by that Committee, printed on pages 523-524 were adopted, a Committee on Criminal Procedure duly constituted, and Messrs. William E. Mikell and Edwin R. Keedy were appointed Reporter and Associate Reporter, respectively, for Criminal Procedure, for the remainder of the current year and for the year 1926. This work is now going forward, and the Council hopes it may result in a useful contribution towards the simplification of our criminal procedure, the necessity for which is widely recognized.

"We hardly could have escaped undertaking this work. Popular thought at the present time is more immediately concerned with the criminal law and its enforcement than with the civil law. The reports in the daily Press of crimes of violence against the person and against property have inflamed the popular imagination to a point which has compelled action in many directions. More drastic penal laws are being enacted by legislatures; increases are being made in the number of judges of our Criminal Courts; some increases in police forces. "Surveys" or Studies of the conditions responsible for this menace to the peace, quiet and safety of our communities are being made; Crime Commissions, National and local, have been formed. Our own contribution to the effort to meet this great fundamental problem of conserving the peace and security of the people, may be slight, but it will be our endeavor to make it valuable so far as it goes.

"The maintenance of justice, the ensuring of domestic tranquility and of the blessings of liberty, can be realized through the efforts of no one agency alone; they depend upon the mental and moral attitude of the People. We can perform our part, and make a great and valuable contribution to the common welfare, but those 'unalienable rights,' among which are 'life, liberty and the pursuit of happiness,' to secure which our governments, National and State, were instituted, can be preserved only so long as our people continue to love liberty, to respect the rights of each other, and to realize that upon themselves, and not only upon their neighbors, rests the duty of that vigilant watchfulness of the public interest without which liberty must perish."

Director Lewis Presents Report

At the conclusion of President Wickersham's remarks, Treasurer George Welwood Murray presented his report. Director Lewis's Report followed. It began with a brief account of the progress of the work of Restatement to date. "The Council submitted to your Annual Meeting last year," it began, "three tentative drafts dealing respectively with parts of the Conflict of Laws, Contracts and Torts. They have submitted to this meeting tentative drafts of additional parts of these subjects containing in all 167 sections and a tentative draft of the first part of the law of agency containing 155 sections. The preliminary drafts completed by the respective groups last fall were submitted to the members of the Council in November and considered at a meeting of that body in New York City on December 16, 17, 18 and 19. The drafts before you are the preliminary drafts so submitted as amended by the Council and by the special committees of the Council to which I shall presently refer.

"Thus, except in Agency where the tentative draft before you represents two years of work, the tentative drafts you will consider at this meeting represent a year's work on the part of the respective

editorial groups covering the period from the fall of 1924 to the fall of 1925. While, therefore, there have been since the last annual meeting nineteen conferences covering in all seventy-five days, the eight conferences which have been held since last October have been devoted to the discussion of preliminary drafts of parts of the respective subjects which will be considered not at this but at your next annual meeting. Already the sections relating to Termination in Agency and Contractual Rights of Persons not Parties to the Contract are almost ready for submission to the Council.

"The work on the Restatement of the Law of Business Associations which began more than a year ago has proceeded somewhat more slowly than that on other subjects mainly due to the fact that your Director, who is also Reporter for that subject, must necessarily give first claim on his time to his work as Executive Officer of the Council and chief of the editorial staff. There is a reasonable expectation, however, that a part of the Restatement of Corporations for Profit can be submitted for your consideration at the next annual meeting."

Modifications in Plan of Work

The report next pointed out certain "modifications in the plan of work as originally adopted." It was, incidentally, not to be wondered at that there had been certain minor changes in the plan of work adopted by the Council three years ago, when the absolute novelty of the undertaking was considered. The preparation of the preliminary drafts by the respective Reporters, the consideration of one preliminary draft after another by groups of experts until a draft is produced which the group is satisfied to submit to the Council, still remain the cornerstones of the method employed. However, the relative share taken by the Advisers in the work was constantly increasing. This was shown not so much by the increase in the number of conferences as in the average length of each conference, and "more especially by the development in each group of one or more Advisers who devote to the work almost as much time as the Reporter himself." Further, the Council has adopted the plan of having preliminary drafts which are prepared by the Reporter and his Advisers submitted to the scrutiny of special committees of the Council before being presented for consideration to the Council as a whole. This change in method was due to the realization that the Council could not adequately consider the increasing amount of matter submitted to it in the time allotted to a single meeting without assistance of this character.

Benefits of Public Discussion of Drafts

On the very pertinent question of the benefits resulting from the public discussion of the tentative drafts at the annual meetings, the Report said:

"Some members of the Council as well as many other members of the Institute were doubtful whether much improvement in the tentative drafts of the Restatement could result from their consideration at a meeting of several hundred judges and lawyers no matter how high the level of their professional attainments.

"I find, however, that these doubts and fears have been dispelled in the minds of almost everyone who attended the meeting last year to whom I have spoken. The discussions at that meeting of the drafts, while not extended, were for the most part pertinent, and the Reporters feel, though some more strongly than others, that many of the criticisms made and suggestions expressed were distinctly helpful. Besides this, we have found that as a result of last year's meeting and the discussions many members and guests were led to make a careful examination of matters in which they were especially interested, with the result that we have received since the meeting written criticisms of value which would not otherwise have been received. It may surprise some Thomas, still doubtful of the value of discussions and written criticisms by those who do not pretend to have made an exhaustive study of the subject on which they speak or write, to know that more than one of the Reporters have, from the criticisms and suggestions received, been led to note a not inconsiderable number of changes which they think should be made in the tentative drafts under discussion at last year's meeting."

The Report then explained why there have been no revisions of the tentative drafts already issued. "In the first place," it said, "we are still receiving written criticisms and suggestions of real value from our members. In the second place, as the result of the resolution adopted at your last meeting inviting the cooperation of Bar Associations and the Bar generally in the work of improving the drafts, we have worked out a plan (described later) under which Committees of State Bar Associations have been appointed to examine and criticize the drafts. Furthermore, many law schools next winter will begin using the drafts in their classes. From both of these sources in the next two or three years we shall doubtless receive considerable light on the defects of the first tentative drafts which should be corrected in the revised drafts." There were also important questions of terminology which could not be settled in advance but must await the further progress of the work, and this furnished another reason for delay in proceeding to the revised drafts. A large part of the Report was devoted to this aspect of the work, the discussion concluding with the following statement:

Problems of Terminology

"That there is much work yet to be done before a consistent and adequate terminology can be had is the most impelling of all the reasons I have given why the preparation of a revision of the tentative drafts considered last year, or to be considered this year, should be postponed. It is, I submit, clear that prior to the issuance of a revision of these tentative drafts agreement must be had on the proper analysis of fundamental legal concepts, and that a much nearer approach must be made to uniformity in the words used to express our statements of law. To reach such an agreement is not a simple matter. It can be done only by a clear understanding on the part of the members of each group of the peculiar problems and points of view of the members of other groups. This will take time. It will involve a very careful, critical, comparative examination of the use of words and expressions in the different tentative drafts in all the subjects, not merely by your Director or by some special committee appointed for the purpose, but by all of those now devoting the best that is in

them to the proper production of a Restatement of the law."

The Report gave in detail the reasons for the decision of the Council not to attempt to transmit complete paralleling Treatises with each part of the Restatement, but only such Commentaries as may facilitate consideration of the Restatement. It then gave an account of the steps that have been taken to secure cooperation of the Bar Associations, beginning with the resolution on this subject adopted at the third annual meeting of the Institute. It continued:

"The Executive Committee read this resolution as a commission from you to work out a plan that would stimulate interest and secure suggestions and criticisms, not only from State Bar Associations, but from the principal local Bar Associations. During the summer letters were sent to the presidents and secretaries of Bar Associations throughout the country and committees have been appointed by fourteen associations. Though we have not as yet received from these committees formal suggestions for the improvement of the respective drafts, the appointment of the committees has undoubtedly stimulated individual members to send suggestions.

"An important indirect result of your resolution has been the establishment of a system by which individual members of State Bar Associations can obtain copies of the tentative drafts at manufacturing plus distribution costs. The system was started by the energetic and efficient secretary of the Illinois State Bar Association, Mr. R. Allan Stephens."

Plan of Work on Criminal Procedure

The use of the tentative drafts in Law Schools, and the advantages to be expected therefrom, were next touched upon, and the Report concluded with the following interesting statement as to the Institute's work on Criminal Procedure:

"The Council at its meeting on May 1 last, after determining that work on Criminal Procedure should take the form of a Code of laws and court rules and should begin as early as practicable, authorized the Executive Committee to invite Herbert S. Hadley, Hon. Henry L. Stimson, Judge Chas. C. Nott, Jr., Judge Harry Olson and William E. Mikell to act with members of the Executive Committee as a Special Committee to prepare a plan of work to be followed in the preparation of the Code. The Special Committee thus authorized began work at once. Their Report, submitted to the Council last December, embodies a detailed examination of the scope of the proposed work and a tentative outline of the Code, a plan of work, and a preliminary draft of an Indictment Act and matters pertaining thereto.

"William E. Mikell and Edwin R. Keedy have been appointed Reporter and Associate Reporter, respectively.

"It is the opinion of the members of the Special Committee and the Reporters that the topics first undertaken should be those in which serious defects in existing procedure are believed to exist. Consequently, the preparation of the tentative drafts may occasionally depart from strictly logical order, though the preliminary drafts on which the Reporters are now at work do relate to what is logically the first part of the completed Code, namely, Arrest, Preliminary Hearing and Bail. A preliminary draft of a substantial portion of these subjects will be discussed at a conference between the Reporters and their Advisers in June. The Advisers will include those members of the Special Committee who are especially cognizant of the subjects to be discussed. It is too early yet to determine whether any parts of the Code will be submitted to the Council next December, though there is much reason to believe from the amount of work already done that this may be the case.

"There is one misapprehension in regard to this Code of Criminal Procedure to which I wish to revert. The Code should not be thought of as a single statute, but rather as a series of model statutes dealing with the different topics properly included under the term Criminal Procedure. Defects in Criminal Procedure are not uniform throughout the several States. For instance, the outworn technicalities connected with indictment, while serious in one group of States, in another already have been largely rectified. It is, therefore, unlikely that any State, at least, for some time after the final official publication of the Code, will desire to adopt it as a whole; it is much more likely that each State will be interested in those suggested reforms which attempt to remedy serious defects in its existing procedure."

After the report of the Committee on Membership and the election of certain nominees, the election of Council Members to fill the vacancies caused by the expiration of the terms of eleven members of the Council and the vacancy caused by the death of Hon. Cordenio A. Severance was taken up. The members whose terms had expired were all re-elected except Hon. Alexander C. King of Georgia, who declined to stand for re-election on account of ill health. Hon. Henry Upson Sims of Birmingham was elected to fill this vacancy and Hon. William D. Mitchell was chosen to fill the vacancy caused by the death of Mr. Severance. At noon the Institute began the consideration and discussion of Restatement No. 2 of Contracts, which lasted during the remaining of the morning and the afternoon session. Friday's sessions were devoted to Restatement No. 1 of Agency and Restatement No. 2 on Torts. Saturday morning was given to the discussion and consideration of Restatement No. 2 on the Conflict of Laws.

Reception by President and Mrs. Coolidge

Social functions in connection with the meeting were the informal reception by the Council of the Institute to members and guests in the ball room of the Hotel Mayflower Wednesday evening; reception and tea to the ladies accompanying members and guests, by a committee of ladies appointed by the Executive Committee of the Institute Council, on Thursday afternoon; reception at the White House by President and Mrs. Coolidge at 4:30 P. M. on Friday; and dinner at the Mayflower Hotel Saturday evening at which President Wickersham presided and talks were made by Hon. Frederick Evan Crane, of the New York Court of Appeals, Dean Roscoe Pound of the Harvard Law School, and Justice Floyd E. Thompson of the Illinois Supreme Court. A dinner Friday evening at the Hotel Mayflower by the pilgrims to London in 1924 was another enjoyable event in which a number of the members of the Institute participated.

REVIEW OF RECENT SUPREME COURT DECISIONS

Mandamus to Compel Federal Court to Return Prosecution of Federal Officer to State Court—Question of Ancillary or Original Suit—Running of Period for Appeal Not Suspended by Application for and Denial of Leave to Move for New Trial—Original General Jurisdiction of District Courts—State Tax Discrimination Against National Bank Shares—Theatre Admission Tax—Board of Tax Appeals Has Power to Prescribe Rules for Admission of Attorneys

By Edgar Bronson Tolman

Federal Procedure—Removal of Causes, Mandamus to Remand

The Supreme Court will exercise a sound discretion in granting or withholding mandamus to compel a Federal Court to return to a state court a prosecution against a Federal officer removed to it. In respect of the removal of state prosecutions there should be a more liberal use of mandamus than in removal of civil cases.

A petition by a Federal officer to remove to a Federal court for trial a prosecution against him for murder must negative the possibility that he was doing acts other than official acts at that time and on that occasion, or make it clear and specific that whatever was done by him leading to the prosecution was done under color of his Federal official duty.

Maryland v. Soper, Adv. Ops. 218, Sup. Ct. Rep. v. 46, p. —

This was a case in which the original jurisdiction of the Supreme Court was invoked to secure, by mandamus, the removal back to the state court of prosecutions for murder there brought against four federal prohibition officers and their chauffeur. These men went out to investigate reports of the manufacture of moonshine on a Maryland farm. They returned with a quantity of distilling paraphernalia and the body of a dying man, supposedly a moonshiner. The affidavit of the officers was that after pursuing the moonshiners for some distance without capturing them, they had returned to the house to find this man, one Lawrence Wenger, mortally wounded and lying beside the path. The State of Maryland, on the other hand, charged the prohibition officers with the murder of Lawrence Wenger. Taking advantage of Section 33 of the Judicial Code, which authorizes the removal to a Federal Court for trial of any prosecution against an officer acting under the authority of any revenue law of the United States, defendants obtained the removals of prosecutions against them to the Federal court for the District of Maryland. The State of Maryland then applied for leave to file its petition for mandamus directing Judge Soper, of the Federal Court, to remand the indictments to the state court. In granting leave, the Supreme Court issued a rule against Judge Soper to show cause why the writ of mandamus should not issue, and Judge Soper answered. The court held that the case was such as to justify the issuance of the writ, and that, although defendants were entitled to the benefit of Section 33, Judicial Code, their amended petition for removal failed to make all necessary allegations to establish a case for removal under that section. Hence the Court granted the writ of mandamus, with leave to the defendants, at the discretion of the District Judge, to submit another amended petition for removal.

The Chief Justice delivered the opinion of the Court. After an extended statement of the facts he considered the contention of the State of Maryland that those earlier decisions in which mandamus had been allowed by the Supreme Court to return to the state court cases which had been removed to the Federal court, were all justified by the gross abuse of discretion by the District Judge in granting removal, whereas here the only issue lay in the interpretation of the facts and the application of Section 33. He said:

> Mandamus is an extraordinary remedy which is issued by this Court under Rev. Stats., sec. 688, to courts of the United States in the exercise of its appellate jurisdiction, and in civil cases does not lie to compel a reversal of a decision, either interlocutory or final, made in the exercise of a lawful jurisdiction, especially where in regular course the decision may be reviewed upon a writ of error or appeal. (Citing cases.)
>
> It may be conceded that there are substantial differences between Virginia v. Paul, Virginia v. Rives and Kentucky v. Powers, and this case. But we do not think that those differences should prevent the issue of the mandamus here. In respect of the removal of state prosecutions, there should be a more liberal use of mandamus than in removal of civil cases. We exercise a sound judicial discretion in granting or withholding the writ. It may be "in cases warranted by the principles and usages of law." (Citing cases.) It is granted in analogy to the intervention of equity to secure justice in the absence of any other adequate remedy. (Citing case.) In the case before us and in all state prosecutions removed under section 33, the jurisdiction of the courts of a state to try offenses against its own laws and in violation of its own peace and dignity is wrested from it by the order of an inferior Federal court. The state by its petition for mandamus becomes a suitor at the bar of this Court to challenge the legality of the inferior court's action. Conceding the validity of the exceptional use of the national supremacy in a proper case, it seeks by this writ to test its propriety here. Except by the issue of mandamus, it is without an opportunity to invoke the decision of this Court upon the issue it would raise. The order of the United States District Judge refusing to remand is not open to review on a writ of error, and a judgment of acquittal in that court is final. (Citing cases.) The fact that the United States District Court may be proceeding in the exercise of a lawful jurisdiction should not, under such exceptional circumstances, prevent this Court from extending to the State the extraordinary remedy.

The learned Chief Justice then turned to the questions whether defendants had the right to secure the removal of the prosecutions to the Federal Court, and whether they had properly asserted that right. He held that defendants were officers "appointed under or acting by authority of any revenue law of the United States," and therefore came within the protection of Section 33, for two reasons: First, by the Willis-Campbell Act provision of the revenue laws making illegal the distillation of spirits by unauthorized distillers had been continued in force as not in conflict with the Prohibition Act; therefore in searching for

these stills defendants were acting under the authority of the revenue laws. And second, the Prohibition Act itself expressly extended to prohibition agents, in the enforcement of the Act, all that protection conferred by law for the enforcement of existing laws relating to the manufacture or sale of intoxicating liquor under the Federal statutes.

But, finally, he decided that the amended petition for removal, submitted by the defendants, was not sufficient to make a case under Section 33. He said in part:

> The prosecution to be removed under the section must have been instituted "on account of" acts done by the defendant as a Federal officer under color of his office or of the revenue or prohibition law. There must be a causal connection between what the officer has done under asserted official authority and the state prosecution. It must appear that the prosecution of him for whatever offense has arisen out of the acts done by him under color of Federal authority and in enforcement of Federal law, and he must by direct averment exclude the possibility that it was based on acts or conduct of his, not justified by his Federal duty. But the statute does not require that the prosecution must be for the very acts which the officer admits to have been done by him under Federal authority. It is enough that his acts or his presence at the place in performance of his official duty constitute the basis, though mistaken or false, of the state prosecution.

In a case of the same name, decided the same day, the State of Maryland asked writs of mandamus to obtain the return to the state courts of indictments charging these same defendants with obstructing justice by false testimony. It was charged that the prohibition officers had conspired to withhold evidence and give false testimony at the coroner's inquest as to Wenger's death. The contention of the State was that defendants were in no way acting in discharge of their duties when they testified before the coroner and therefore could not take advantage of Section 33. With this the Chief Justice agreed, saying:

> Of course, one can state a case in which acts not expressly authorized by the Federal statutes are such an inevitable outgrowth of the officer's discharge of his Federal duty and so closely inter-related with it as necessarily to be within the protection of section 33.
>
> Thus removals of prosecution on account of acts done in enforcement of the revenue or prohibition laws or under color of them properly include those for acts committed by a Federal officer in defense of his life threatened while enforcing or attempting to enforce the law. Such acts of defense are really part of the exercise of his official authority. They are necessary to make the enforcement effective. . . .
>
> The defendants when called upon to testify before the coroner were not obliged by Federal law to do so. Indeed, even under state law, they might have stood mute, because the proceeding was one in which they were accused of crime. They themselves show that they voluntarily made the statements upon which these indictments were founded. While, of course, it was natural that if not guilty they should have responded fully and freely to all questions as to their knowledge of the transaction with a view of showing their innocence, nevertheless their evidence was not in performance of their duty as officers of the United States.

A similar result was reached in a case charging one of defendants with perjury.

The cases were argued by Mr. Thomas H. Robinson, Attorney General of Maryland, and Mr. Herbert Levy for the State of Maryland, and by Assistant Attorney General William J. Donovan for the Federal court.

Practice—Jurisdiction, Ancillary Proceedings

A bill in equity brought by a purchaser at a foreclosure sale to relieve it of liability imposed upon it by the final decree of foreclosure due to appellant's mistaken election between alternatives offered by the court, is a suit ancillary to the foreclosure proceeding and the Federal court therefore has jurisdiction without regard to the citizenship of the parties.

Cincinnati, Indianapolis & Western Railroad Co. v. Indianapolis Union Railway Co. et al., Adv. Ops. 326, Sup. Ct. Rep. v. 46, p. 221.

Two railroads, connecting at Indianapolis, were purchased at a mortgage foreclosure sale. The decree of the court gave the purchaser an election to determine whether or not he should be bound by contracts made by the two railroads with a terminal company for rental of terminal facilities in Indianapolis. The purchaser elected to be bound by the contract made by one of the two railroads but not by that made by the other. The terminal company intervened in the suit and the District Court held that the election was improper and that the purchaser was bound by both contracts. The Circuit Court of Appeals for the Sixth Circuit affirmed this decree. Two years thereafter the purchaser filed a petition in the same District Court to be relieved from the effect of its so-called ineffective election on the grounds of mistake. The District Court concluded that the suit was not ancillary but original, and that as neither the requisite diversity of citizenship nor a Federal question was present, the bill must be dismissed. Upon direct appeal to the Supreme Court this decree was reversed.

The CHIEF JUSTICE delivered the opinion of the Court. Without, of course, passing on the question whether or not equity would give relief from the effects of the alleged mistake, he concluded that the District Court had incorrectly determined the jurisdictional question. He said in part:

> The present proceeding is only another phase of the same litigation, carried on as ancillary to the foreclosure suit, in which the purchasing company was found to be bound by its purchase to pay two-thirteenths of the rentals to the Indianapolis Union Railway. The purchaser seeks to recur to the circumstances under which it attempted to accept liability to pay one-thirteenth of the rental and to reject the other one-thirteenth. It says that as the Circuit Court of Appeals has held that its attempted election was invalid and ineffective for the purpose, it should have equitable relief from the oppressive obligation to pay two-thirteenths on the ground of its mistake and be permitted to make an election which will relieve it from the contract to pay any rental at all, as it might have done when it became the purchaser. Such a proceeding is certainly ancillary to the enforcement of the decree of sale and the contract of purchase.

The learned CHIEF JUSTICE adduced many cases in support of the principle that where a bill in equity is necessary to have construction of an order or decree of a Federal Court, or to explain, enforce or correct it, a bill may be entertained by the court entering the decree, even though the parties interested, for want of diverse citizenship, could not be entitled by original bill in the Federal Court to have the matter there litigated.

The case was argued by Mr. Murray Seasongood for the appellant and by Messrs. Joseph S. Graydon and Joseph J. Daniels for appellees.

Practice on Appeals

Where an appeal must be taken within ninety days after the judgment is rendered, the running of this period is not suspended by the application for and denial of leave to move for a new trial.

Morse v. United States, Adv. Ops. 317, Sup. Ct. Rep. v. 46, p. 241.

Morse brought suit against the Government in the Court of Claims and judgment was entered against

him January 21st. He then had sixty days within which to move for a new trial, and the rules of the Court provided that after the decision on such a motion no other motion should be filed by the same party without leave of court. On May 4th he made such a motion and it was overruled. On May 28th and on June 9th he presented motions for leave to file motions to amend the findings of fact and for a new trial. Both applications were overruled. On September 5th he applied for an appeal to the Supreme Court. More than the ninety days allowed for such appeals had then elapsed since the original denial of his motion for a new trial, but Morse contended that the running of this period was suspended by his unsuccessful motions of May 28th and June 9th. The Supreme Court, however, thought not, and dismissed the appeal.

The CHIEF JUSTICE delivered the opinion of the Court. He said:

> There is no doubt under the decisions and practice in this Court that where a motion for a new trial in a court of law, or a petition for a rehearing in a court of equity, is duly and seasonably filed, it suspends the running of the time for taking a writ of error or an appeal, and that the time within which the proceeding to review must be initiated begins from the date of the denial of either the motion or petition. (Citing cases.) The suspension of the running of the period limited for the allowance of an appeal, after a judgment has been entered, depends upon the due and seasonable filing of the motion for a new trial or the petition for rehearing. In this case, after the first motion for a new trial had been overruled, on May 4, 1924, no motion for a new trial could be duly and seasonably filed under Rule 50 of the Court of Appeals, except upon leave of the Court of Claims. This leave, though applied for twice, was not granted. Applications for leave did not suspend the running of the ninety days after the denial of the motion for a new trial within which the application for appeal must have been made. For that reason, the motion of the Government to dismiss the appeal as not in time, and so for lack of jurisdiction, must be granted.

The case was argued by Solicitor General Mitchell and Ass't. Attorney General Herman J. Galloway for appellee in support of the motion and by Mr. John H. Morse pro se in opposition thereto.

Federal Jurisdiction—Venue

The original general jurisdiction of the District Courts is not enlarged so as to permit suit to be brought in a district where neither plaintiff nor defendant is an inhabitant by virtue of the fact that plaintiff could have brought suit in a state court of concurrent jurisdiction from which defendant could have removed the case to such a district court.

Seaboard Rice Milling Co. v. Chicago, Rock Island & Pacific Ry. Co., Adv. Ops. 252, Sup. Ct. Rep. v. 46, p. 247.

A Milling Company brought suit against a Railroad Company for damages sustained by the carrier's negligence. The suit was brought in the District Court for the Eastern District of Missouri. Neither the Milling Company nor the Railroad was an inhabitant of this District. The Railroad appeared specially and filed a plea to the jurisdiction on this ground. The suit was dismissed. Upon direct writ of error under Section 238, Judicial Code, the Supreme Court granted a motion interposed by the Railroad to affirm the judgment.

Mr. Justice Sanford delivered the opinion of the Court. Section 51, dealing with the venue of suits originally brought in the District Court, requires them to be brought in the district where defendant is an inhabitant, unless the general federal jurisdiction is based solely on diversity of citizenship, when it may be brought in the district in which plaintiff resides. In this case the district involved was one in which neither plaintiff nor defendant resided. The contention of the Milling Company, however, as stated in the Court's opinion, was as follows:

> The Milling Company contends, however, that since it might have brought the suit originally in a State court of concurrent jurisdiction within the Eastern District of Missouri, in which the Railway Company is transacting business, and the Railway Company, under the decisions in General Investment Co. v. Lake Shore Railway, 260 U. S. 261, and Lee v. Chesapeake Railway, supra, might then have removed it to the District Court, this necessarily involves the conclusion that the District Court also has "original jurisdiction" of the suit, since section 28 of the Judicial Code provides only for the removal of suits of which the District Courts "are given original jurisdiction."

To this the learned Justice replied:

> The fallacy of this argument lies in the failure to distinguish between the general jurisdiction of the District Courts, to which section 28 relates, and the local jurisdiction over the person of the defendant, to which section 51 relates. . . .
>
> Whether the suit be originally brought in the District Court or removed from a state court, the general Federal jurisdiction is the same; and the venue or local jurisdiction of the District Court over the person of the defendant is dependent in the one case as in the other upon the voluntary action of the non-resident defendant, being acquired in an original suit by his waiver of objection to the venue, and in a removed suit by his application for the removal to the District Court.

Argued by Messrs. Thomas P. Littlepage, Lon O. Hocker, Frank H. Sullivan, W. F. Dickinson, Luther Burns and M. L. Bell for defendant in error in support of the motion and by Mr. Alfred G. Hagerty for plaintiff in error in opposition thereto.

Taxation—National Banks

The allegations in a petition for an injunction against discrimination in the state taxation of national bank shares HELD sufficient to show that the shares were subjected to greater rate of taxation than was imposed on moneyed capital utilized in competition with the bank.

First National Bank of Guthrie Center v. Anderson et al., Adv. Ops. 171, Sup. Ct. Rep. v. 46, p. 135.

This was a suit by a national bank on behalf of its shareholders to restrain the collection of a state tax levied on the shares. The contention was that the state law made a serious discrimination against bank shares and in favor of a relatively substantial amount of competing moneyed capital, in violation of Section 5219, Revised Statutes. Judgment entered for the state authorities, affirmed by the Iowa Supreme Court, was, on writ of error, reversed by the Supreme Court of the United States.

Mr. Justice Van Devanter delivered the opinion of the Court. No new points of law were involved in the decision. The Court held that a discrimination in violation of the Federal statute was made out by allegations that the bank stock was subjected to a tax of 143.5 mills, while other moneyed capital was taxed at a rate of five mills. The opinion is of interest in that it contains a succinct recapitulation of the law as to the nature and extent of the restriction on state taxation of national bank shares, in the following words:

> 1. The purpose of the restriction is to render it impossible for any State, in taxing the shares, to create and foster an unequal and unfriendly competition with national banks, by favoring shareholders in state banks or individuals interested in private banking or engaged in operations and investments normally common to the business of banking. (Citing cases.)
>
> 2. The term "other moneyed capital" in the restriction is not intended to include all moneyed capital not invested in national bank shares, but only that which is

employed in such a way as to bring it into substantial competition with the business of national banks. (Citing cases.)

3. Moneyed capital is brought into such competition where it is invested in shares of state banks or in private banking; and also where it is employed, substantially as in the loan and investment features of banking, in making investments, by way of loan, discount or otherwise, in notes, bonds or other securities with a view to sale or repayment and re-investment. (Citing cases.)

4. The restriction is not intended to exact mathematical equality in the taxing of national bank shares and such other moneyed capital, nor to do more than require such practical equality as is reasonably attainable in view of the differing situations of such properties. But every clear discrimination against national bank shares and in favor of a relatively material part of other moneyed capital employed in substantial competition with national banks is a violation of both the letter and spirit of the restriction. (Citing cases.)

The learned Justice held that the amendment to Section 5219, enacted in 1923, excepting merely personal investments not made in competition with national bank business from the "competing moneyed capital" described in the Section, did no more than put into express words that which had been implied before the amendment.

The state court had concluded that the petition alleged simply that notes and other evidences of money loaned upon farm land security by banks as the agents of their customers were taxed at a lower rate than bank shares, and that such business was not in competition with that of national banks. But the learned Justice, referring to the allegations of the petition, replied to this:

No doubt they are broad enough to include farm mortgages; but this does not weaken the allegation of competition, for while national banks were formerly prohibited from making loans on real estate (citing cases), the prohibition was partly withdrawn and much of that field was opened to such banks by the Acts of December 22, 1913, c. 6, section 24, 38 Stat. 273, and September 7, 1916, c. 461, 39 Stat. 754.

As the case now stands, we think no effect can be given to what the state court assumes is the practice of banks in rural portions of Iowa in making farm loans as agents for their customers or others. If there be such a practice, it is not a matter which may be noticed and given effect without pleading or proof. If followed by some banks, it may not be followed by others. The state court does not speak of it as universal, but only as followed by "many banks." Certainly the record gives no ground for holding that the plaintiff follows it. In this situation the allegation of competition stands unaffected by the assumed practice.

We conclude that the state law, when construed and applied as authorizing the discrimination against the bank's shares, which is charged in the petition, is in that regard in conflict with the restriction in the Federal statute.

The case was argued by Mr. J. G. Gamble for the bank, and by Mr. Ben J. Gibson, Attorney General of Iowa, and Mr. Earl W. Vincent for the state authorities.

Taxation—Theatre Admission Tax

The provision of the Revenue Act of 1918 taxing the sales of theatre tickets does not impose a tax upon the sale by a stockholder in an opera house company of the right to occupy, for certain performances, a box which the stockholder, as such, has the right to use.

Iselin v. United States, Adv. Ops. 279, Sup. Ct. Rep. v. 46, p. 248.

Plaintiff was a stockholder in the corporation owning the Metropolitan Opera House in New York. The corporation leased the theatre to the producing company and retained the license to use the parterre boxes. As such a stockholder, plaintiff was entitled to occupy one parterre box. She sold the license to occupy this box for 47 of the 70 performances. The sales were separate, to various purchasers, and for varying prices. The Commissioner of Internal Revenue imposed a tax upon the proceeds of these sales, acting under Paragraph 3 of Section 800 (a) of the Revenue Act of 1918, which taxes the sales of tickets to places of amusement sold "at news stands, hotels and places other than the ticket office." As there was no regular established price at which parterre boxes were regularly sold, by which to measure the tax, the Commissioner found a basis for taxation in the regular price for grand tier boxes, a class of seats most like those of plaintiff. Plaintiff brought suit to recover the amount paid under protest. The Court of Claims entered judgment dismissing the petition. Upon appeal to the Supreme Court the judgment was reversed.

Mr. Justice Brandeis delivered the opinion of the Court. The essence of the Commissioner's contention and the Court's reply thereto, are found in the following paragraph:

The Government . . . argues that Congress clearly intended to tax all sales of tickets; that there is in the section no indication of intention to exempt from the tax any sale of tickets or any resale at a profit; that the receipts here taxed are in character substantially similar to those specifically described in paragraph 3; that this general purpose of Congress should be given effect, so as to reach any case within the aim of the legislation; and that the Act should, therefore, be extended by construction to cover this case. It may be assumed that Congress did not purpose to exempt from taxation this class of tickets. But the Act contains no provision referring to tickets of the character here involved; and there is no general provision in the Act under which classes of tickets not enumerated are subjected to a tax. Congress undertook to accomplish its purpose by dealing specifically, and in some respects differently, with different classes of tickets and with tickets of any class under different situations. The particularization and detail with which the scope of each provision, the amount of the tax thereby imposed, and the incidence of the tax, were specified, preclude an extension of any provision by implication to any other subject. The statute was evidently drawn with care. Its language is plain and unambiguous. What the Government asks is not a construction of a statute, but, in effect, an enlargement of it by the court, so that what was omitted, presumably by inadvertence, may be included within its scope. To supply omissions transcends the judicial function.

Argued by Mr. H. G. Pickering for appellant and by Assistant to the Attorney General Alfred A. Wheat for appellee.

Board of Tax Appeals—Rules of Procedure, —Attorneys

The Board of Tax Appeals has power to prescribe procedure before it, including rules of practice for the admission of attorneys. Where the Board denies the right of an attorney to practice before it, the attorney is entitled to notice and opportunity to be heard. Until the attorney has applied for such a opportunity, he may not ask the courts for relief.

Goldsmith v. United States Board of Tax Appeals, Adv. Ops. 329, Sup. Ct. Rep., v. 46, p. 215.

Petitioner, a certified public accountant, filed certain petitions for taxpayers before the Board of Tax Appeals. The Board referred the question of his admission to practice before it to a committee, and later he was advised that the Board after consideration had refused him permission to appear before it. He then brought a petition for a writ of mandamus to require the Board to admit him to practice before it. The members of the Board answered, alleging certain improper conduct by petitioner in the practice of his profession, and upon demurrer to this answer the issue was joined. The Supreme Court of the District of

Columbia dismissed the petition and this judgment was affirmed by the Court of Appeals. The Supreme Court of the United States, to which the case was brought by writ of error, concluded that the Board had the right to make such regulations, and because, while petitioner was entitled to a hearing, he had not asked for it, judgment should be affirmed.

The CHIEF JUSTICE delivered the opinion of the Court. He reviewed the structure and functions of the Board, pointing out its independence and broad powers, and then said:

> We think that the character of the work done by the Board, the quasi judicial nature of its duties, the magnitude of the interests to be affected by its decisions, all require that those who represent the taxpayers in the hearings should be persons whose qualities as lawyers or accountants will secure proper service to their clients and so help the Board in the discharge of its important duties. In most of the Executive departments in which interests of individuals as claimants or tax payers are to be passed on by executive officers or boards, authority is exercised to limit those who act for them as attorneys to persons of proper character and qualification to do so.

He did not think that the fact that the statute empowering the Board did not, as similar statutes often do, require a list of enrolled attorneys to which practitioners must be admitted, indicated that Congress did not intend to give the Board power to regulate admissions to practice before it. He said:

> Our view, on the contrary, is that so necessary is the power and so usual is it that the general words by which the Board is vested with the authority to prescribe the procedure in accordance with which its business shall be conducted include as a part of the procedure rules of practice for the admission of attorneys. It would be a very curious situation if such power did not exist in the Board of Tax Appeals when in the Treasury Department and the officer of the Commissioner of Internal Revenue there is a list of attorneys enrolled for practice in the very cases which are to be appealed to the Board.

But, continued the learned Chief Justice, petitioner was entitled to notice and hearing:

> The rules adopted by the Board provide that "the Board may in its discretion deny admission, suspend or disbar any person." But this must be construed to mean the exercise of a discretion to be exercised after fair investigation, with such a notice, hearing and opportunity to answer for the applicant as would constitute due process.

By neglecting to avail himself of this right, petitioner was not in a position to ask the aid of the courts.

> But he made no demand of this kind. Instead of doing so, he filed this petition in mandamus in which he asked for a writ to compel the Board summarily to enroll him in the list of practitioners, and to enjoin it from interfering with his representing clients before it. He was not entitled to this on his petition. Until he had sought a hearing from the Board, and been denied it, he could not appeal to the courts for any remedy and certainly not for mandamus to compel enrollment.

Argued by Mr. H. Ely Goldsmith pro se.

Special Assessments,—Drainage

The Drainage Acts of South Dakota which authorize the assessment of costs and benefits for maintenance and repair, do not extend to property outside of the original drainage district.

Where the assessment is void for lack of statutory power to levy it, injunctive relief may be had without appeal to the state court.

The test of Federal equity jurisdiction is the inadequacy of the remedy on the law side of the Federal court and not the inadequacy of remedy in the state courts.

Risty et al. v. Chicago, Rock Island & Pacific Railway Co., Adv. Ops. 241, Sup. Ct. Rep. v. 46, p. 236.

Appeals were brought to the Supreme Court in six cases wherein certain owners of property in a South Dakota drainage district had brought suits to restrain the local authorities from apportioning benefits or assessing costs affecting their properties. With the exception of one case (in which judgment was therefore reversed) the necessary jurisdictional facts were alleged and proved, and the contention was that the statutes and proceedings were unauthorized and void. The facts were briefly as follows. In 1907 the local authorities properly created a drainage district in the neighborhood of Sioux Falls and assessments were made and collected to pay for a drainage ditch constructed therein. In 1910 another district, contiguous to the first, was created to pay for another and connecting ditch. In 1916 a flood resulted in serious damage to these ditches. The Commissioners thereupon conducted proceedings purporting to create a new drainage district which provided for the construction of a ditch located, in fact, just where the two former ditches were. Under these proceedings the Commissioners had the old ditches repaired, and they then levied assessments to pay for the cost. The assessments were, however, extended to lands not within the two original assessment districts as previously established. The lower courts found that the supposed new ditch was not a new project but was identical with the previously established ditches, that the proceedings had for their only purpose the repair of the old ditches, and that costs were assessed to property outside of the original districts. They therefore concluded that these later proceedings were void, and granted the injunctions. Upon appeal from the Circuit Court of Appeals for the Eighth Circuit, judgments, except as to the case where jurisdictional elements were lacking, were affirmed.

Mr. Justice Stone delivered the opinion of the Court. In reviewing the relevant provisions of the South Dakota statutes he made it clear that the provisions dealing with assessments for further cost and maintenance of ditches already constructed were separate and different from those relating to the construction of new drainage ditches. As to the former, he pointed out, there was no provision for the assessment or equalization of benefits. This was because the procedure for making assessments for repairs was made expressly like that provided for the first assessments for construction; assessments for maintenance were to be made "upon the land owners affected in the proportions determined for such drainage." The learned Justice said:

> The statutes of South Dakota contain no provision for assessing the cost of reconstruction or maintenance of an existing drainage project except in the two sections last referred to, and they make no provision for assessing such costs upon lands not embraced within or assessed in connection with the drainage as originally established. Whether the cost of construction work actually done on ditch No. 1 and ditch No. 2 and involved in this litigation be regarded as additional costs of construction or as cost of maintenance, or partly one and partly the other, there is no statutory authority for assessing that cost on lands not included in the original drainage district.

The remainder of the opinion disposes of minor contentions. Those contesting the jurisdiction of equity in these cases were of greatest importance; they were considered and rejected in the following paragraphs:

> The objections to the exercise of equity jurisdiction in these cases require no extended comment. . . . As

(Continued on page 338)

STATUE OF CHIEF JUSTICE WHITE UNVEILED

IMPOSING ceremonies marked the unveiling of the heroic statue of the late Chief Justice of the United States, Edward Douglass White, at New Orleans on April 8. Hon. John Dart, of the New Orleans Bar, was master of ceremonies on this interesting occasion. The program included an invocation by the Rev. Albert Biever, S. J., and addresses by Hon. Percy Saint, Attorney General of Louisiana, who spoke for Governor Fuqua; Hon. Charles A. O'Niell, Chief Justice of the Louisiana Supreme Court; Hon. George W. Wickersham of New York. The last was the principal oration of the day and summarized the main events of the late Chief Justice's career on and off the Bench in a striking manner.

Mr. Dart opened the ceremonies with a brief introduction. "We are gathered to pay tribute to the memory of a great son of Louisiana, the late Edward Douglass White," he said. "He spent his life, from young manhood to middle age, in New Orleans. He served in the Senate of Louisiana. He was an Associate Justice of the Supreme Court of Louisiana. He was a leader in the political struggles of his period. He was always a great student and his efforts at the Bar were crowned with the success that all lawyers should desire to attain, that is, he was recognized as a jurist of the first rank.

"His political ambition was gratified by a seat in the Senate of the United States, and while filling that station he was chosen by President Cleveland Associate Justice of the Supreme Court of the United States. This occurred in 1894 before he had crossed the half-century limit of his life. His tasks required him to reside in Washington and the Bar of Louisiana lost the benefit of his genius and ability, but felt that the recognition of this master mind of Louisiana was a tribute to the profession.

"In 1910 Judge White was moved up in the Court and became Chief Justice of the United States under the appointment of President Taft. It is usually said that he was a Democrat appointed by a Republican, but the truth is that Chief Justice White at the time of his promotion had ceased to be a partisan and the question of his original primary political faith had ceased to be of interest to anybody, and we may confidently say had ceased to be considered by himself.

"The Chief Justice died in 1921, and a movement was begun in Louisiana to erect some suitable memorial in the city that had nursed the young lawyer and had faithfully supported him through all the stages of his wonderful career. This movement culminated in 1922 and 1924 when the Legislature directed the creation of the memorial whose completion we have gathered here today to celebrate.

"The State of Louisiana dedicates to her child this lasting memorial in bronze in order that her people may never forget, and in order that every lawyer shall day by day have before him the inspiration of the honorable, noble and splendid career of Edward Douglass White, Chief Justice of the United States, whose monument we now unveil."

At this point the statue was unveiled by Susan White Hardin, the little nine-year-old grand niece of the late Chief Justice. Mr. Dart then introduced the speakers in turn, all of whom paid eloquent tribute to the greatness of the man whose memory they were gathered to honor. We regret that lack of space prevents reproducing these addresses in this issue of the Journal. They will of course be issued as a memorial of the occasion. Following Mr. Wickersham's oration, the benediction was pronounced by Hon. Robert S. Coupland.

Hon. A. T. Stovall, of Okolona, Miss., former member of the Executive Committee of the American Bar Association, was present as the special representative of that organization. Hon. George B. Rose, of Little Rock, Ark., and Hon. R. E. L. Saner, of Dallas, Tex., other members of the special committee appointed by President Long, were unable to attend.

Calendar of Coming Events

American Bar Association Meets at Denver, Colorado .....July 14-15-16

National Conference of Commissioners on Uniform State Laws Meets at Denver.....July 6-12

Georgia State Bar Association Holds Annual Meeting at Tybee Island.....June 3-4-5

Iowa State Bar Association holds Thirty-second Annual Convention at Davenport.....June 17-18

Illinois State Bar Association Holds 50th Annual Meeting at Rock Island-Moline.....June 24-25-26

Wisconsin State Bar Association Holds Annual Meeting at Kenosha .....June 24-25-26

Wyoming State Bar Association Holds Annual Meeting at Sheridan.....June 28-29

North Carolina State Bar Association Holds Annual Meeting at Wrightsville.....June 30, July 1-2

Indiana State Bar Association Holds 30th Annual Meeting at Michigan City, Ind.....July 8-9

Montana State Bar Association Holds Annual Meeting at Great Falls Week of.....July 5

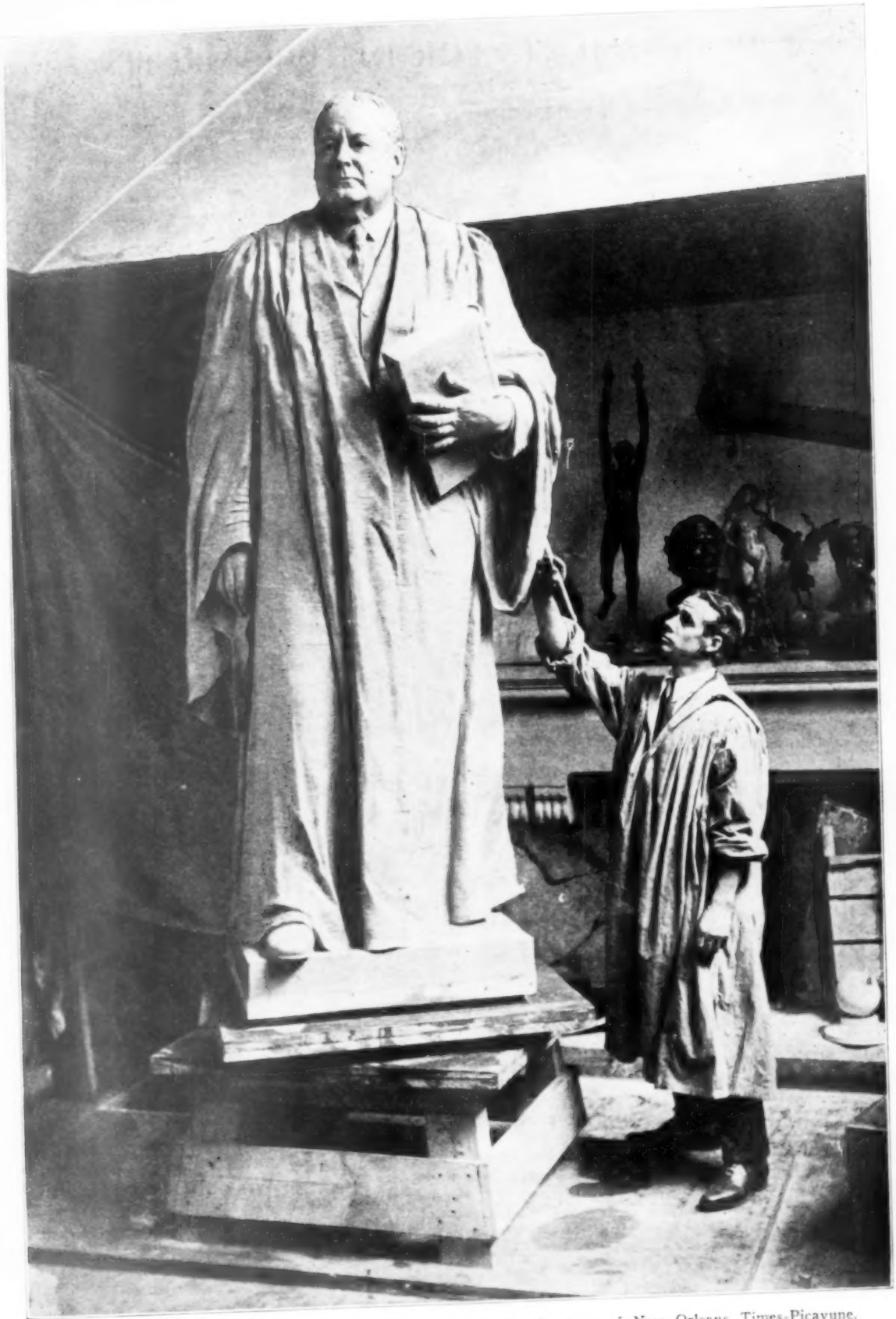
Minnesota State Bar Association Holds Annual Meeting at Duluth.....July 13-14-15

Commercial Law League Holds 1926 Convention in San Francisco in Week Beginning.....July 19

Washington State Bar Association Holds Annual Meeting at Big Four Inn.....July 29-30-31

California State Bar Association Holds Annual Meeting in Yosemite Valley September9-10-11

Missouri Bar Association Holds Annual Meeting at Kansas City.....October 1-2



Statue of Late Chief Justice White Unveiled at New Orleans.—Courtesy of New Orleans Times-Picayune.

ARRANGEMENTS FOR DENVER MEETING

Tentative Program of the Association

Wednesday, July 14, at 10 A. M.

Denver Auditorium

Addresses of Welcome.

Annual Address by President of the Association.

Announcements.

Report of Secretary.

Report of Treasurer.

Report of Executive Committee.

Nomination and Election of Members.

(State delegations will meet at the close of this session to nominate members of the General Council, and to select nominees for Vice-President and Local Council for each State.)

Wednesday, July 14, at 2:30 P. M.

Denver Auditorium

This session will be a joint session of the American Bar Association and the Colorado State Bar Association.

Address by Henry A. Dubbs of Colorado. Subject to be announced later.

Symposium—Enforcement of the Criminal Law:

Guy A. Thompson, St. Louis, Mo.

(Second speaker to be announced later.)

Richard Washburn Child, New York City.

Wednesday, July 14, at 8 P. M.

Denver Auditorium

Address by Hon. James M. Beck. (Subject to be announced later.)

9:30 P. M. President's Reception—Cosmopolitan Hotel.

Thursday Morning, July 15

A. M. *Broadway Theatre*

10:00 Statement of progress of work of the American Law Institute, by the President, George W. Wickersham.

Reports of Sections and Committees

(The names of the respective chairmen are given.)

Sections

10:20 Criminal Law, Oscar Hallam, St. Paul, Minn.

10:30 Comparative Law Bureau. William M. Smithers, Philadelphia, Pa.

10:40 Judicial Section. James I. Allread, Columbus, Ohio.

10:50 Legal Education. Silas H. Strawn, Chicago, Ill.

11:00 Patent, Trade-Mark and Copyright Law. Arthur C. Frazer, New York, N. Y.

11:10 National Conference of Commissioners on Uniform State Laws. George B. Young, Montpelier, Vt.

11:20 Public Utility Law. William Chamberlain, Cedar Rapids, Iowa.

11:30 Conference of Bar Association Delegates. Josiah Marvel, Wilmington, Del.

Committees

11:40 Professional Ethics and Grievances. Thomas Francis Howe, Chicago, Ill.

11:50 Use of the Word "Attorney." William H. Lamar, Washington, D. C.

P. M.

12:00 Supplements to Canons of Professional Ethics. Charles A. Boston, New York.

12:10 Commerce, Trade and Commercial Law. Province M. Pogue, Cincinnati, Ohio.

12:20 Practice in Bankruptcy Matters. Simon Fleischmann, Buffalo, N. Y.

12:30 Publicity, Walter H. Eckert, Chicago, Ill.

12:40 Publications. Grenville Clark, New York.

12:50 Membership. Frederick E. Wadhams, Albany, N. Y.

1:00 Adjournment.

Thursday Afternoon, July 15

Broadway Theatre

Committee Reports

(The names of the respective Chairmen are given.)

P.M.

2:00 American Citizenship. F. Dumont Smith, Hutchinson, Kans.

2:15 International Law. James Brown Scott, Washington, D. C.

2:25 Law Enforcement. Charles S. Whitman, New York City.

2:35 Removal of Government Liens on Real Estate. John T. Richards, Chicago, Ill.

2:45 Jurisprudence and Law Reform. Henry W. Taft, New York City.

3:00 Federal Taxation. Charles Henry Butler, Washington, D. C.

3:15 Salaries of Federal Judges. A. B. Andrews, Raleigh, N. C.

3:30 Symposium—Greater Efficiency in Judicial Procedure.

1. Robert G. Dodge of Boston, Mass. "Judicial Council."
2. Edson R. Sunderland of Ann Arbor, Mich. "Exercises of the Rule Making Power."
3. Roscoe Pound, Cambridge, Mass. "The Canons of Procedural Reform."

5:00 Memorials. William P. McCracken, Jr., Chicago, Ill.

Thursday, July 15, at 8 P. M.

Denver Auditorium

Address by Thomas J. Norton of Chicago, Ill. "National Encroachments and State Aggressions."

Paper by Duncan Campbell Lee of London, England. "The New English Law of Property Act of 1925."

Friday Morning, July 16

Broadway Theatre

Committee Reports

(The names of the respective Chairmen are given.)

A. M.

10:00 Revision of Federal Statutes. Paul H. Gaither, Greensburg, Pa.

10:20 Uniform Judicial Procedure. Thomas W. Shelton, Norfolk, Va.

10:30 Noteworthy Changes in Statute Law. Joseph P. Chamberlain, New York City.

10:40 Admiralty and Maritime Law. Charles C. Burlingham, New York City.

10:50 Change of Date of Presidential Inauguration. Levi Cooke, Washington, D. C.

11:00 Legal Aid. Reginald Heber Smith, Boston, Mass.

11:20 Law of Aeronautics. William P. MacCracken, Jr., Chicago, Ill.

11:30 Incorporation of American Bar Association. John B. Corliss, Detroit, Mich.
11:40 Insurance Law. William Brosmith, Hartford, Conn.
12:00 Nomination and Election of Officers. Miscellaneous Business. Adjournment *sine die*.

Friday, July 16, at 2 P. M.

Motor Trip. (Details to be announced later.)

Friday Evening, July 16, at 7 P. M.

Annual Dinner of members of the Association, ladies and guests—Denver Auditorium. Speakers to be announced later.

Saturday, July 17.

All-Day Motor Trip to points of interest, as guests of Colorado and Denver Bar Associations.

Conference of Bar Association Delegates

Eleventh Annual Meeting, Denver, Tuesday, July 13, 1926

Forenoon Session—10:00 A. M.

Opening Address: Vice-Chairman, Josiah Marvel.

Reports of Committees:
- Conciliation and Small Claims Procedure: Reginald Heber Smith, Chairman.
- Co-operation Between the Press and the Bar: Julius Henry Cohen, Chairman.
- Requirements for Admission: Walter F. Dodd, Chairman.
- State Bar Organization: Clarence N. Goodwin, Chairman.
- Judicial Selection: Irvin V. Barth, Chairman.

Reports by Delegates on Bar Association Accomplishments.

Appointment of Nominating Committee.

Afternoon Session—2:00 P. M.

Special Topic: The Judicial Council and the Rule-Making Authority.

Reports of Delegates—Continued.

Miscellaneous New Business.

Section of Criminal Law

The Criminal Law Section will hold two sessions on Tuesday, July 13, in the Capital Life Auditorium at 2 P. M. and 8 P. M. The following speakers will address the Section:

Oscar Hallam of the St. Paul Bar, Chairman of the Section of Criminal Law, "Movements for Better Law Enforcement to Date."

Charles A. Boston of the New York Bar. "Crime Waves and Their Suppression—Past History," "Informal Presentation of Advantages Which May Be Gained from a Study of the History of Crime Suppression."

Charles C. Butler, President of the Denver Bar Association, "The Administration of Criminal Justice."

Arthur V. Lashly of St. Louis, Operating Director of the Missouri Association for Criminal Justice, "The Missouri Crime Survey."

William Draper Lewis of Philadelphia, Director of the American Law Institute, "Model Code of Criminal Procedure."

Justin Miller of Minneapolis, Professor of Law, University of Minnesota, "What Shall We Do With the Survey and the Model Code?"

Section of Patent, Trade-Mark and Copyright Law

Tuesday, July 13

10:00 A. M. Annual Meeting of the Patent Section, Drawing Room, Brown-Palace Hotel.
1:00 P. M. Luncheon.
2:00 P. M. Program to be announced later.
7:00 P. M. Dinner, Palm Room, Brown-Palace Hotel.

Comparative Law Bureau

1 P. M., Tuesday, July 13, Brown-Palace Hotel.

Section of Legal Education and Admission to the Bar

2 P. M., Tuesday, July 13, Ball Room, Shirley Savoy Hotel.

Judicial Section

Afternoon session, 2 P. M., Tuesday, July 13, Brown-Palace Hotel. (Speakers to be announced later.)

Dinner, 7 P. M., Wednesday, July 14, Palm Room, Brown-Palace Hotel.

Tentative Program, Section of Public Utility Law

The Ninth Annual Meeting of the Section will be held on Monday, July 12, and Tuesday, July 13, 1926.

There will be three sessions of the Section: 2:30 P. M. Monday, July 12, and 10:00 A. M. in Rainbow Lane, Shirley Savoy Hotel. Dinner at 7:00 P. M., Tuesday, July 13, at University Club.

Speakers and Program to be announced later.

Commissioners on Uniform State Laws

Thirty-Sixth Annual Conference

Ball Room—Brown-Palace Hotel, Denver, Colorado

Tuesday, July 6

9:30 A. M. *First Session*:
- Address of Welcome.
- Response of President.
- Roll Call.
- Reading of Minutes of Last Meeting.
- Address of President.
- Report of the Secretary.
- Report of the Treasurer.
- Report of the Executive Committee.
- Appointment of Committee on Memorials.
- Report of Standing Committees:
  - Scope and Program.
  - Educational and Publicity.
  - Legislative.
  - Appointment of and attendance by Commissioners.
- Reports of General Committees:
  - Legislative Drafting.
  - Uniformity of Judicial Decisions.
  - Cooperation with Other Organizations Interested in Uniform State Laws.
  - Cooperation with American Institute.

Beginning with the second session drafts of Uniform Acts will be considered during the remaining sessions of the Conference which will run through Monday, July 12th. Two sessions will be held each day, a morning session from 9:30 A. M.

until 12:30 P. M., and an afternoon session from 2:00 P. M. until 6:00 P. M.

For the accommodation of those attending the meeting of the Conference, the Chicago and Northwestern Railway will attach special sleeping cars to the Denver Special, leaving Chicago at 6:05 P. M. (Central Standard Time) Sunday, July 4th, leaving Omaha at 7:45 A. M., Monday, July 5th, and arriving at Denver at 8:30 P. M. Monday, July 5th. In order that desirable reservation may be secured application should be made promptly to Mr. H. G. Van Winkle, General Agent, Chicago & North Western Railway Company, 148 South Clark Street, Chicago, Ill.

For further information Commissioners may apply to

GEORGE G. BOGERT, Secretary,
University of Chicago Law School,
Chicago, Illinois.

Special Trains to Denver

Arrangements have been made with the Chicago, Burlington & Quincy Railroad Company to run three special trains for the American Bar Association from Chicago to Denver on the following schedules:

Leave Chicago ...	6:00 P. M.	Sunday,	July 11
Arrive Denver ...	7:30 P. M.	Monday,	July 12
Leave Chicago ...	11:30 P. M.	Sunday,	July 11
Arrive Denver ...	7:15 A. M.	Tuesday,	July 13
Leave Chicago ...	5:30 P. M.	Monday,	July 12
Arrive Denver ...	7:55 P. M.	Tuesday,	July 13

Each of these trains will be equipped with the latest type club-observation cars, Pullman sleeping cars, and dining cars, and special menus will be prepared and served.

The special trains will leave from the new Union Station, Chicago, which is also the terminal of the Pennsylvania Lines, Chicago & Alton Railroad and Chicago, Milwaukee & St. Paul Railroad.

Special facilities will be provided in the station where members may meet, leave their baggage, secure information, and avail themselves of the most modern accommodations afforded to travelers during the interim between trains.

Railroad tickets should be purchased at point of departure and routed from Chicago to Denver over the Chicago, Burlington & Quincy Railroad. Provision will be made for special trains returning from Denver in the event there is sufficient demand for this service. Those contemplating traveling West from Denver can secure their return ticket over any route that suits their convenience. Those planning to return to Chicago directly after the meeting should purchase their return tickets over the Chicago, Burlington & Quincy, and in making reservations should also request Pullman accommodations for the return trip. Purchasers of tickets to Denver are advised to get Colorado Springs' coupons attached. No extra charge for this.

In order to assure adequate accommodations, members desiring to use these trains should write **at once** for their reservations, specifying kind desired (upper berth, lower berth, compartment or drawing room), and should address their request to J. R. Van Dyke, General Agent, Chicago, Burlington & Quincy R. R. Co., 179 West Jackson Boulevard, Chicago, Ill.

Connections at Chicago

The Broadway Limited, via Pennsylvania Lines, leaving New York at 2:55 P. M., Harrisburg 6:47 P. M., Pittsburgh 12:28 midnight, arrives Chicago at 9:55 A. M.

The Liberty Limited, Pennsylvania Lines, leaving Washington at 3:30 P. M., arrives Chicago 9:30 A. M.

Columbus, Logansport and intermediate points can enjoy day service on Pennsylvania train No. 33 leaving Columbus at 8:50 A. M., passing Logansport 1:50 P. M., arriving Chicago 5:00 P. M.

Along the main line of the Pennsylvania R. R. from Pittsburgh, Pennsylvania train No. 107 leaving Pittsburgh 4:52 A. M., carrying parlor cars and general high class equipment, making Canton, Massillon, Mansfield, Fort Wayne, arrives Chicago 4:55 P. M.

The Pennsylvania also has a good train from Cincinnati to Chicago, leaving Cincinnati at 8:50 A. M., making Richmond, Logansport and way stations, arriving Chicago 5:15 A. M. This train also has a connection from Indianapolis, leaving there at 11:45 A. M. and arriving Chicago at 5:15 P. M. This train also handles through cars from Louisville that leaves Louisville at 8:30 A. M.

The B. & O. Capitol Limited, leaving Baltimore 1:52 P. M., and Washington at 3:00 P. M., Pittsburgh 10:00 P. M., arrives Chicago at the Grand Central Station at 9:00 A. M.

The New York Central Twentieth Century Limited leaving New York at 2:45 P. M., Albany at 5:49 P. M., Utica at 7:43 P. M., Syracuse 8:53 P. M., Rochester 10:25 P. M., arrives Chicago, La Salle Street Station at 9:45 A. M.

The Twentieth Century connection from Boston leaves at 12:30 P. M.

The New York Central Lake Shore Limited leaving New York 5:30 P. M., Albany 9:00 P. M., Syracuse 11:08 P. M., Rochester 12:25 A. M., arrives Chicago at 4:00 P. M.

The Lake Shore Limited leaves Cleveland 8:20 A. M., Sandusky 9:55 A. M. and Toledo 11:05 A. M.

The Wolverine on the Michigan Central, leaves Detroit at 7:25 A. M., Ann Arbor 8:10 A. M., Jackson 8:57 A. M., Kalamazoo 10:41 A. M., Niles 11:34 A. M. and arrives Chicago 2:00 P. M.

The Michigan Central Chicago Special leaves Detroit at 8:00 A. M., Ann Arbor 8:49 A. M., Jackson 9:45 A. M., Albion 10:12 A. M., Battle Creek 10:43 A. M., Kalamazoo 11:19 A. M., Niles 12:21 P. M., Michigan City 1:11 P. M., arriving Chicago 2:50 P. M.

The Michigan Central Motor City Special leaves Detroit at 11:30 P. M., arrives Chicago 7:20 A. M.

Connections En Route

Leave Minneapolis, C. & N. W.	7:35 P. M.	
Leave St. Paul, C. & N. W.	8:15 P. M.	
Arrive Omaha, C. & N. W.	7:40 A. M.	next day
Leave Omaha, C. B. & Q.	7:55 A. M.	
Arrive Denver, C. B. & Q.	7:55 P. M.	
Leave St. Louis, C. B. & Q.	11:55 P. M.	
Arrive Lincoln, C. B. & Q.	5:45 P. M.	next day
Leave Lincoln, C. B. & Q.	6:00 P. M.	
Arrive Denver, C. B. & Q.	7:15 A. M.	next day

OR—

Leave St. Louis, C. B. & Q.	2:15 P. M.	
Arrive Omaha, C. B. & Q.	7:10 A. M.	next day
Leave Omaha, C. B. & Q.	7:55 A. M.	
Arrive Denver, C. B. & Q.	7:55 P. M.	
Leave Kansas City, C. B. & Q.	10:30 A. M.	
Arrive Lincoln, C. B. & Q.	5:45 P. M.	
Leave Lincoln, C. B. & Q.	6:00 P. M.	
Arrive Denver, C. B. & Q.	7:15 A. M.	next day

Headquarters

Cosmopolitan Hotel, 18th street and Broadway.
Capacity: 430 rooms with bath.
Rates: Single rooms, $5.00 and $6.00 per day. Double rooms, $8.00 to $12.00 per day.

Reservations and Hotel Information

For reservations and further information concerning the Cosmopolitan and other Denver Hotels listed below, address:

Miss Mabelle A. Carter, 508 Equitable Building, Denver, Colorado.

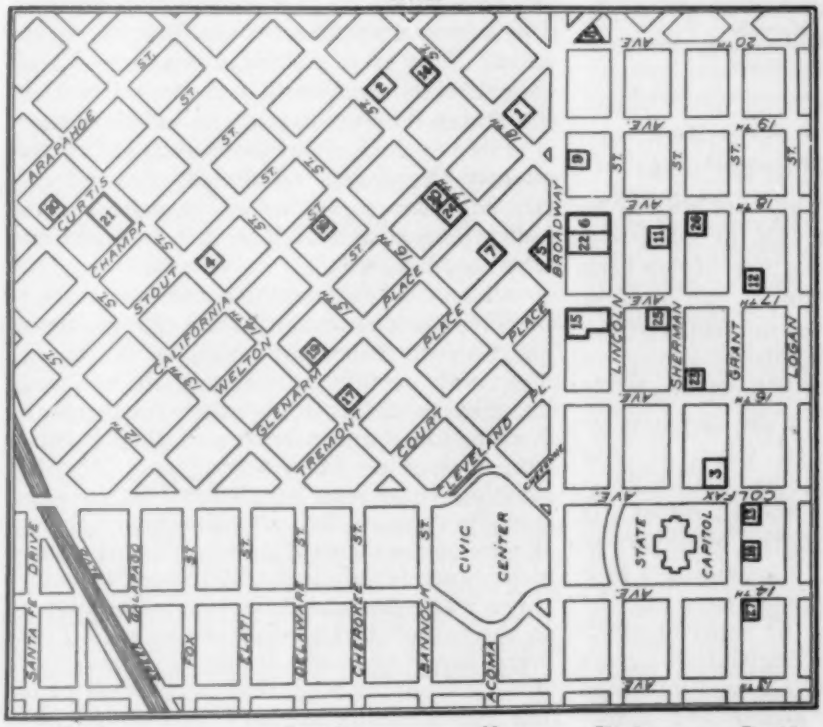
Arrangements can also be made through Miss Carter for accommodations in family hotels and furnished apartments for members bringing their families or who will spend their vacation in Denver after the meeting is over.

Reduced Rates for Denver Meeting

Summer tourist rates to Denver and the National Parks will be available in the greater portion of the United States, and amount to approximately one fare and one-tenth for the round trip. The return limit allows ample time after the close of the meeting for a vacation trip.

For Colorado and and the territory contiguous thereto, embracing Colorado, Idaho, Kansas, Montana, Nebraska, North Dakota, New Mexico, South Dakota, Utah, Wyoming, and parts of Nevada and Oregon, arrangements are being made with the Transcontinental Passenger Association for securing the usual reduction of 25%. Identification certificates will be distributed to members living in the states mentioned, in ample time to permit of their purchasing tickets for themselves and families. Further details will appear in subsequent issues of the JOURNAL.

North



Location and Rates of Denver Hotels

Hotel	Location	No. on map	Single with bath	Double with bath	Single without bath	Double without bath
Adams	18th and Welton	1	$5.00	$6.00	.....	.....
Albany	17th and Stout	2	5.00	6.00–10.00	$4.00	$5.00–6.00
Argonaut	Colfax and Grant	3	5.00	6.00	.....	.....
Auditorium	14th and Stout	4	3.50	6.00	3.00	4.00
Brown Palace	17th and Tremont	5	5.00	8.00	.....	.....
Cosmopolitan	18th and Broadway	6	5.00– 6.00	8.00–10.00	.....	.....
Colorado	17th and Tremont	7	.....	5.00	.....	3.00
Crest	20th and Broadway	8	2.00	3.00	1.50	2.50
DeSoto	1848 Broadway	9	.....	4.50	1.50	2.50
Hall	1315 Curtis	20	3.00	5.00	2.00	3.00
Kenmark	17th and Welton	10	3.00	5.00	2.50	3.50
Lancaster	18th and Sherman	26	5.00	6.00	3.00	4.00
Mayflower	17th and Grant	12	3.50	6.00	.....	.....
New House	Colfax and Grant	13	5.00	7.50	.....	3.00
Sears	18th and California	14	3.00– 5.00	5.00– 8.00	.....	.....
Shirley-Savoy	17th and Broadway	15	5.00	6.00– 8.00	3.00	4.00–6.00
Standish	1530 California	16	3.00– 6.00	5.00– 9.00	2.50– 5.00	3.50–7.00
St. Francis	14th and Tremont	17	.....	6.00	.....	4.00
Wellington	1450 Grant	18	*6.50	*10.00	*5.00	*8.50
West Court	14th and Glenarm	19	3.50	6.00	2.50	4.00
Available Hotels Not Shown on Map						
Colburn	10th and Grant		5.00	7.00	.....	.....
Oxford	17th and Wazee		4.00	6.00	2.50	4.00
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*American Plan.

AMERICAN BAR ASSOCIATION JOVRNAL

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JOSEPH R. TAYLOR, MANAGER
Journal Office: Room 1119 The Rookery Bldg., 209 South La Salle St., Chicago, Illinois.

JUDICIAL POWER AND BAR ORGANIZATION

Where courts can act and are willing to act, they furnish an example of efficiency that the slow-moving legislature, blown here and there by variable winds, can seldom parallel. Comparison of the quickness of the adoption of higher standards of education for admission to the bar in Illinois and West Virginia, for instance, with the slowness or positive inaction exhibited when it was thought that the aid of the legislature must be invoked to secure this needed reform, is sufficient to give point to the observation. Similarly, when it comes to providing a procedure that will simplify and expedite the administration of Justice, the superior effectiveness of judicial over legislative action hardly needs to be argued to a well informed lawyer. Courts have a power and a machinery for prompt and effective action, where these have not been impaired by unwise legislative interference. Some time ago we had occasion to point out how the United States Supreme Court had handled the problem of policing and governing a large area in connection with certain receivership proceedings growing out of the Oklahoma-Texas boundary dispute and had achieved "a triumph of unhampered judicial administration."

This being the case, it is not strange that many lawyers should feel that in the inherent rights of the courts there is an immense reserve of useful power which should be utilized for the public benefit. It is true of course that the Constitutions of various States have different provisions on the subject and that, therefore, the powers of the judiciary vary accordingly. It is also true, as pointed out by an article by Judge Newcomer in the April issue of the JOURNAL, that the courts in certain states by judicial decision have apparently surrendered powers which might have been successfully asserted and which possibly might still be successfully asserted by a succeeding court inclined to do so. It is also true that in some states more than others the legislatures have shown a disposition to trench on the powers of the courts and have secured by lapse of time a certain acquiescence in their encroachments. But after making allowances for all this, the fact remains that in most, if not all, the states the exercise of the judicial power is vested exclusively in the courts, and consequently the courts admittedly possess certain inherent rights as components of the judicial department which they can exercise when so disposed.

These considerations are particularly pertinent just at present when the important question of the organization of the bar to deal with certain admitted evils has been brought to the front by the recent special meeting of the Conference of Bar Association Delegates at Washington. At that meeting there was no disposition to question the value of such organization or the existence of the evils springing from lax admissions and insufficient discipline, although there was a natural difference of opinion as to the extent of the evils themselves. There were, however, some decided expressions of dissent from the view that integration of the bar by legislative aid was the only effective way to deal with the problem, and there was further considerable evidence that the legislatures were in the main very slow in reacting to the arguments of those who were trying to secure action. In brief, at one point at least the movement to deal with the bar's special problems had run up against the old legislative barrier which has proved so difficult to surmount in the past. Where these conditions exist, the question naturally arises, whether the matter should not be taken before a better informed tribunal than the legislatures in each state—a tribunal that can fairly be relied on to deal with the question on its merits instead of with reference to a variety of purely political and extraneous considerations.

Without attempting to discount the opinions of those who think the legislative

integration method the best in their particular states, under the conditions there prevailing, we venture to suggest that in a large number of the states bar integration, as a means of dealing with problems of admission, discipline and the like, may be accomplished effectively through recourse to the judicial power. We are aware that the suggestion may have a certain novelty, but a brief consideration of the inherent powers of the courts and their natural implications should prevent anyone from confusing novelty with invalidity. In the April, 1921, issue of the JOURNAL we called attention to this recourse in an editorial entitled "Incorporation of the Bar," and we take the liberty of quoting two paragraphs pertinent to the matter under discussion:

"It is universally held by all the decisions that a lawyer is an officer of the court, that he owes to it a special allegiance and resulting duties of a well defined character, touching not only his demeanor in the court room, but the determination of his qualifications for admission to the bar, and his accountability to discipline for every act done in the exercise of the privileges and prerogatives bestowed upon him by the license to practice. It has been held that because of the fact that lawyers are officers of the court, the legislature invades the judicial province when it attempts to prescribe the qualifications which will entitle an applicant for admission to the bar to a license, and that such laws are therefore unconstitutional and void. (In re Day, 181 Ill., 73.)

"Since, therefore, lawyers are officers of the courts and are a part of the judicial institution, why is it necessary to seek for any further grant of power from the legislative department? Has not the Judicial Department inherent power to deal with the question of the organization of all its officers, the creation of subdivisions, geographical and functional, and the assignment of special duties to special subdivisions or groups? It is already firmly in possession of the power to examine for admission and to disbar, and it usually exercises these powers with the aid of examining committees and grievance committees. Is there any essential part of the proposed plan to incorporate the bar which cannot be accomplished at once by the coordinated effort of judges and lawyers?"

If the inherent power of the courts logically carries with it the implications above set forth—and we do not believe that this can successfully be denied—we have here an immense reserve of untapped and, as it seems, generally unsuspected power that may be brought into play to secure the legitimate ends of the bar and thus improve the administration of Justice.

A NEW PERIOD OF LAW DEVELOPMENT

The organization of the American Law Institute, which recently held a successful meeting at Washington, may come in time to mark the beginning of a new period in the history and development of the law: a period in which it was finally realized, in America at least, that there were great problems of law and law administration which could not be grappled with and solved by the ordinary methods of government, but which required independent agencies with independent financing.

Law to the average layman seems such a part of government that an endowment to improve its form or substance or administration must seem very much like an attempt to endow government itself. He thinks the courts ought to work somehow, no matter what they are given to work with. But this is certainly not the expert view, and it is this view which is nowadays being asserted with growing emphasis. The need of research, of scholarship, of unbiased workers, of adequate financing as a means of improvement should soon become a commonplace in the field of law, as it already is in the field of science. And this should naturally carry with it, on the part of great foundations and private citizens, anxious to find effective means of using a part of their wealth for real public service, a growing willingness to help finance indispensable independent agencies of law development.

The Carnegie Foundation has led the way. Those now engaged in raising a large endowment for the Harvard Law School, much of which is to be used to promote research, are acting on the same principle. Mr. Cook's gift a few years ago to the University of Michigan was due to a great extent to the same idea. Given bodies of known efficiency to receive and wisely expend the funds, no safer investment for the public good could be made.

CURRENT LEGAL LITERATURE

A Department Devoted to Recent Books in Law and Neighboring Fields and to Brief Mention of Interesting and Significant Contributions Appearing in the Current Legal Periodicals

Among Recent Books

JOANNIS SELDENI Ad Fletam Dissertatio. Reprint from the edition of 1647, with parallel translations, introduction and notes. By David Ogg. Cambridge: University Press. 1925. La. 8vo. lxvi and 204 pages. (20s net.) (In Cambridge Studies in English Legal History; edited by Professor Hazeltine.)

A Manual of Year Book Studies. By William Craddock Bolland. Cambridge: University Press. 1925. La. 8vo. xix and 162 pages. (12s. 6d. net.) (In Cambridge Studies in English History; edited by Professor Hazeltine.)

Just as in the break with the eighteenth century notions of law as found in "nature" and founded on "reason" there followed a remarkable interest in the law's past, as evidenced by the flood of old rolls issued by Parliament in the early part of the last century, so in the break with sixteenth century "authority" we see a revival of interest in legal history in the first half of the seventeenth century.

John Selden's Dissertation on Fleta is but one of a half dozen notable contributions to legal history for this period. "The desire to reform the law goes hand in hand with the desire to know its history," says Maitland, "and so it always has been and always will be." The renewed interest in legal history and legal theory today, the notions brewing that law schools must become centers of scientific legal research, and the fact of the American Law Institute are all but evidence that we are approaching a new era in law reform, a period of creative activity. This classic from John Selden is extremely welcome at this time if for no other reason than that it comes from a writer with a noble conception of history writing, the notion that the personal equation must be minimized and that the facts must remain supreme. Selden was a pioneer in what we denominate today as the "New History" which is still more honored by the lips than by the hand. The *Dissertatio* will always be one of the classics of English legal literature and we are deeply indebted to Mr. Ogg for the masterly critical edition. We are fortunate to have this much needed new edition from the hand of a scholar of seventeenth century history. Mr. Ogg edits this work by way of a long introduction rather than by footnotes. It is to be regretted that Mr. Ogg did not see fit also to annotate Selden a little more fully, keeping us in the spirit of the century in which it was written.

Mr. Bolland's little book is the third of a series of monographs of lectures delivered at London and Cambridge Universities. It is written in the same lucid and graphic style that we would expect of the author of "The Year Books" and "The General Eyre." One closes the book with the same feeling of keen delight of having lived in the thirteenth century and having seen and heard and felt what was sensed by our ancestors in this crude but epoch-making age. We have collected here in an attractive form much of the learning on the Year Books as well as some important additions by the author himself, who has no peer on the subject of the Year Books. Most interesting of Mr. Bolland's contributions is his modestly proposed theory of the origin and evolution of these reports. He suggests that our printed black letter Year Books as we know them do not have simply one or two parents but indeed have grandparents and great-grandparents to the seventh generation. The original ancestors are the original notes taken in abbreviated form by the apprentices at law in court. These notes were revised from memory at the close of the day. These revised notes were collected and read aloud and recopied by ear. From these copies many recopies were copied from sight. Finally, years later, these last recopies were collected and copied into the Year Book MSS. as we now have them. Thus they remained until the middle of the sixteenth century, when many of these MSS. were collected and printed, usually without comparison of the different MSS. Finally we get the reprints of these first printed Year Books. There is little wonder that Mr. Bolland's respect for the Plea Rolls have apparently materially increased since his first monograph on "The Year Books." Much more could well be said here of the Plea Rolls as the best first hand authoritative evidence of our formal rules of law during the Year Book period.

The legal profession is greatly indebted to Mr. Ogg and Mr. Bolland as editors and to Mr. Hazeltine as general editor of these two valuable books.

JOSEPH F. FRANCIS.

University of Oklahoma.

The United States Senate and the World Court. By Frances Kellor & Antonia Hatvany. New York. Thomas Seltzer. 1925. Pp. xix, 353. $2.00. This book presents a readable account of the organization and jurisdiction of the Permanent Court of International Justice. The title would seem to indicate that it was prepared for the guidance of Senators in the debate over the Permanent Court which began in the U. S. Senate on the 17th of December, 1925. The text is arranged in paragraphs for ready reference, and a number of important documents are reprinted in the appendix.

In view of Senator Borah's gargantuan attack upon advisory opinions, it is interesting to note that the authors include two chapters on this important subject. Some of the conclusions, however, might bear revision. For instance, it is positively asserted that the rendering of advisory opinions is not a judicial function (pp. 117-119, 143-144). But such an eminent authority as Pro-

fessor Manley O. Hudson in a course of lectures delivered at the Academy of International Law at The Hague as late as August, 1925, has held that the rendering of advisory opinions as exercised by the Permanent Court is judicial in character. (*Advisory Opinions of the Permanent Court of International Justice*, published in International Conciliation, No. 214, pp. 371-374.)

Advisory opinions may be the rock on which American adherence to the Permanent Court will meet defeat. The fifth reservation adopted by the Senate on the 27th of January, 1926, failed to conform to the suggestion of President Coolidge and flatly demanded that the Court should give no advisory opinions touching American interests without America's consent. Whether the forty-eight nations already adhering to the Court will accept this drastic restriction remains to be seen. If not, then the protocol of adherence submitted by the President to the Senate will not contain the fifth reservation in the exact form as adopted by the Senate; and, in that case, the struggle in the Senate over adherence to the Court will begin again. In any event, we are destined to hear much about advisory opinions in the next few years.

KENNETH COLEGROVE.

Northwestern University.

A History of Economic Progress in the United States, by W. W. Jennings. New York: Thomas Y. Crowell Company, pp. xvi, 819. $4.50. In this substantial volume the author gathers together all the important data on American economic progress, not because he is one of those who believe that the economic interpretation (or any other one interpretation) will explain all the historical phenomena of a given period, but because he does regard these facts as of deep importance and as easily segregated and presented by themselves. The division of the material is into the colonial period, that from 1776 to 1815, 1815 to 1860, 1860 to 1900, and the twentieth century. While the bulk of the book makes no appeal to the reader for pleasure, this is much less the case in the first two parts. They contain a fair number of passages of real interest, and the author has widely sprinkled his pages with quotations from contemporary writers which often bring out their point in a striking or droll manner.[1] The arrangement of the material is the same in each period, thus making the orientation of the whole very easy. A chapter which stands out is that on the Combination Movement in the Twentieth Century. In a short space it presents an able picture of the economic growth and meaning of those organizations popularly called trusts. Its usefulness is not lessened by the fact that it is in the main an abridgment of Eliot Jones' excellent book on the "Trust Problem in the United States."

The Oxford and Cambridge University Presses have both made recent additions to the volumes useful to students of comparative law. The former has published *The Swiss Civil Code* (pp. xliv, 287. $3.50), the translation being by Ivy Williams, whose preliminary volume on Sources of the Law in the Swiss Civil Code was reviewed in February, 1924. The present translation does not include the separate Code of Obligations (viz., the law of contracts, in its broadest sense), but does include all of the other provisions of substantive civil law. Vocabularies at the end give the original of the English words used by Miss Williams, thus enabling the reader to check back, partly at least, to the provisions themselves. The excellence of the work is indicated by the fact that the Swiss Ministry of Justice has expressed its appreciation in a letter to the translator.

The Oxford University Press (American Branch), has also brought out a second edition of R. W. Lee's *Introduction to Roman-Dutch Law* (pp. xlviii, 424. $6.75). This is a manual of the law system of those parts of the British Empire which were originally under Dutch influence and in which the common law has not succeeded in substituting itself. Principally this means South Africa of course, with Ceylon in a subordinate position. Covering the entire field of civil law in these jurisdictions the book is necessarily limited to broad outlines. Extensive footnotes, however, give citations opening the door to more intensive investigation.

A volume aiming at much the same result for students of the Roman Law is *A Manual of Roman Private Law*, by W. W. Buckland (Cambridge University Press. Pp. xxvii, 432. 16s.). The author states in his preface that he has designed his book primarily to aid the beginners in this study. Intensive treatment is therefore avoided, and the thread of discussion is also rendered more apparent by an almost complete absence of digressions in the shape of notes or references to outside writings. Such a method is plainly a dangerous one in the hands of an unqualified writer. Mr. Buckland, however, already has published a more extensive treatise, which to a large extent renders this procedure safe in his hands. The arrangement of the material resembles that used in Sohm's classic treatise, except that, in line with our ways of thinking, the law of actions is separately dealt with at the end, instead of being mingled with the substantive law, as Sohm does.

Many readers will have become familiar with a series of little books that first began to appear about a year ago, called the Today and Tomorrow Series. Each concerns itself with some one phase of, or element in, our present civilization, and several have in a short space hurried out a succession of arresting and stimulating ideas. Hence one opens *Lycurgus or the Future of Law* by E. S. P. Haynes (pp. 82. $1.00) with a good deal of curiosity. The result, it must be confessed, is disappointing. The tiny chapters, nine of them, rush from corporations to criminal law, from costs of court proceedings to conflicts of law. To the lay reader what can all these hurrying images mean? Can they mean more to him than the flicker we see as we look through a camera shutter? To the lawyer what satisfaction is there in a swarm of ideas, with possibilities perhaps, but all undeveloped? For whom was it written? It is a puzzling little book, both as to what it is and why it is.

The increasing recognition given to taxation as a subject for a law school course is shown by the appearance of a new casebook which will itself tend to further that movement. This is *Cases on Federal Taxation* by J. H. Beale, of Harvard, and R. F. Magill, of Columbia. (New York, Prentice-Hall, Inc., pp. 719. $6.00). The first 470 pages are devoted to the Income Tax; the rest to the Estate, Gift and Capital Stock Taxes. The pertinent sections of statutes and regulations head each section, instead of being buried (so far as probable student use goes) in an appendix.

A casebook in a very different field, which is making its appearance in a second edition is Mikell's *Cases on Criminal Law* (St. Paul: West Publishing Co., pp. 799. $5.00). The first edition appeared in 1908 and

1. See for example p. 819.

was one of the first volumes of the American Casebook Series. It has been very widely used and has so well stood the test that the present volume involves only minor changes in the arrangement of subject matter, the principal alteration being a moderate overhauling of the cases, with some substitution of new ones.

In *Bothering Business* (New York: B. C. Forbes Publishing Company, pp. 57, $0.50) H. A. Toulmin launches a violent attack on the Federal Trade Commission. Many of the criticisms are sound (though not novel). The unbiased reader, however, will soon find himself unconsciously resisting any possible persuasion by so partisan a publication. It easily defeats its own purpose.

Leading Articles in Current Law Reviews

Columbia Law Review, April (Columbia University, New York City)—Trade Associations and The Law, by Herman Oliphant; Commerce, Congress and The Supreme Court, 1922-1925-I, by Thomas Reed Powell; Oral Modification of a Written Contract, by H. H. Nordlinger; Equitable Ejectment, by Robert M. Hutchins.

Indiana Law Journal, April (Indianapolis, Ind.)—Rule in Indiana as to Payment by Notes or Checks, by James M. Ogden; Conditional Sales Contracts in Indiana, by Ollie C. Reeves.

Harvard Law Review, April (Cambridge, Mass.)—Non-Voting Stock and "Bankers' Control," by A. A. Berle, Jr.; The Power of Governmental Agencies to Compel Testimony, by David E. Lilienthal; The English Struggle for Procedural Reform, by Edson R. Sunderland.

Texas Law Review, April (Austin, Texas)—Modern English Legal Practice, by Edson R. Sunderland; Remedy of the Seller for Breach of Conditional Sale in Texas, by J. P. Adoue; Tort Jurisdiction in Admiralty, by George Wilfred Stumberg; Uniform State Laws, by W. M. Crook.

Michigan Law Review, April (Ann Arbor, Mich.)—The Technique of Judicial Appointment, by Harold J. Laski; The Uniformity of the Maritime Law, by George L. Canfield; Inheritance Problems in the Conflict of Laws, by Herbert F. Goodrich.

Boston University Law Review, April (Boston, Mass.)—Equity Rules of the Supreme Judicial Court—Revision of 1926, by Henry E. Bellew; The Right of Property in International Law, by E. A. Harriman; Insurable Interest in Life, by Lincoln S. Cain.

Marquette Law Review, April (Milwaukee, Wis.)—May a Person Be Convicted of a Felony and Yet Escape Civil Liability Therefor, by W. B. Rubin; Judicial Legislation, by Thomas H. Ryan; Par Clearance in the Federal Reserve System, by Carl Zollman.

Cornell Law Quarterly, April (Ithaca, New York)—Austin's Classification of Proprietary Rights, by James W. Simonton; Federal Bankruptcy Act: Section Twenty-nine, by Albert Levitt; Judicial Construction of the New York Arbitration Law of 1920, by Lionel F. Popkin.

American Law Review, March-April (St. Louis, Mo.)—The Commerce Clause of the Constitution—Its History and Development, by George C. Lay; Amendment of the Federal Constitution—Should It Be Made More Difficult? by Justin Miller; Conscription for Foreign Service, by Forrest R. Black; Effect of an Unconstitutional Statute, by Oliver P. Field.

Virginia Law Review, April (University, Va.)—Supreme Court Condonation and Condemnations of Discriminatory State Taxation, 1922-1925, by Thomas Reed Powell; Military Courts-Martial Procedure Under the Revised Articles of War, by Frank E. Taylor.

Virginia Law Register, April (Charlottesville, Va.)—Right of Railway Employees Limited by Common Law Defenses, by J. H. Rives, Jr., Liability of Parent for Child's Tort, by Louis F. Jordan.

American Law Journal of International Law, April (Washington, D. C.)—The Part of International Law in the Further Limitation of Naval Armament, by Charles Cheney Hyde; The Legal Status of the Pan-American Union, by Walter Scott Penfield; The Bombardment of Damascus, by Quincy Wright; American Extraterritorial Jurisdiction in China, by Crawford M. Bishop; Spheres of Influence; An Aspect of Semi-Suzerainty, by Geddes W. Rutherford.

University of Pennsylvania Law Review, April (Philadelphia, Pa.)—A New Legal Problem in the Relations of Capital and Labor, by Horace Stern; Proof of Domicil, by J. H. Beale; Due Process Tests of State Taxation, 1922-1925 (II), by Thomas Reed Powell.

University of Pennsylvania Law Review, May (Philadelphia, Pa.)—Judicial Review in Action, by Edwin S. Corwin; Carriage of Goods by Sea—The Hague Rules, by F. Cyril James; Power of Legislative Bodies to Punish for Contempt, by C. S. Potts.

Oregon Law Review, April (Eugene, Oregon)—Joseph Story, by MacCormac Snow; Abolition of Jury Trial in Civil Cases, by Rupert Bullivant; The Sources of The Oregon Constitution, by W. C. Palmer.

Canadian Bar Review, April (Toronto)—Insurance Companies and Costs, by Angus C. Heighington; Self-Interest in Law, by Sidney Smith; Jugements des Autres Provinces dans La Province de Quebec, by Louis-Joseph De La Durantaye.

Celebrating a Golden Anniversary

"A fund of $500,000 to endow scholarships and research in economics in American colleges was recently established by the American Bankers Association in celebration of its Golden Anniversary. The intention of the Foundation is to promote education in the direction of sounder general economic understanding. Half the total sum represents subscriptions by the American Bankers Association, the American Institute of Banking and individual bankers, and the other half quotas assigned to bankers in each state. The Association gave $50,000 from its reserve funds, and the American Institute of Banking, through individual subscriptions from its members, who are chiefly clerks in the banks, subscribed $25,000. Numerous subscriptions of $5,000, $2,500 and $1,000 each were made by individual bankers in all parts of the country."—*Exchange.*

CURRENT LEGISLATION

The Revenue Act of 1926 (Continued)

By Middleton Beaman

Consolidated Returns

UNDER the 1924 Act two or more domestic corporations are permitted to file a consolidated return of income if one corporation owns at least 95% of the voting stock of the other, or if at least 95% of the voting stock of both corporations is owned by the same interests. The new Act, in section 240, retains this rule for the calendar year 1925, but for 1926 and subsequent years strikes out the word "voting" and defines the term "stock" so as not to include non-voting stock which is limited and preferred as to dividends. The change was brought about by the growing practice of corporations to issue common stock without voting rights, so that corporations were filing consolidated returns by reason of an affiliation resulting from ownership of 95% of the voting stock, but only a small portion of other classes of stock.

Claims Against Transferred Assets

Prior to the passage of the new Act the only method by which the Government could collect its taxes where the assets of the taxpayer were disposed of was by a proceeding in equity to enforce the liability of the transferee under the trust fund doctrine. There was no law authorizing distraint against the transferee. Section 280 of the new Act, without in any way attempting to state under what circumstances the transferee is liable, provides that the liability of the transferee in respect of an income, excess profits, or war-profits tax shall be assessed and collected in the same manner and subject to the same provisions as in the case of a deficiency in income tax imposed by the new Act; that is to say, by notice from the Commissioner to the transferee, and opportunity either to pay the amount of the liability and sue for refund, or to proceed before the Board of Tax Appeals with review by the courts. The liability when determined by the Board, or by the failure of the transferee to take the case to the Board, is enforceable by distraint.

The estate tax title contains a similar section relating to liability in respect of an estate tax or gift tax.

Court Review of Decisions of the Board of Tax Appeals

Probably the most important change made by the new Act in the administrative features of the income and estate tax is that relating to the effect of the decisions of the Board of Tax Appeals. Under the 1924 Act, if the Commissioner was dissatisfied with the decision of the Board he could not assess more than the amount found due by the Board, but could bring suit against the taxpayer for any excess. Conversely the taxpayer was obliged to pay the amount fixed by the Board and could bring suit to recover any amount which he claimed to be excessive. Under the new Act the decision of the Board is final and conclusive upon both parties unless an appeal is taken to the Circuit Court of Appeals, review by the Supreme Court being limited to certiorari. The system of so-called "60-day letters" is continued in the new Act. The Commissioner can take no steps for the collection of a deficiency until he has mailed a notice of the deficiency to the taxpayer and the latter is given an opportunity to take the case to the Board of Tax Appeals. The right of the taxpayer to pay the tax and bring suit for refund is preserved, but if he takes the case to the Board his right to suit for refund is gone, his only remedy being to appeal to the Circuit Court of Appeals.

Circuit Courts of Appeal, upon appeal from the Board of Tax Appeals, are confined to a review of matters of law, it being the intention of the bill to make the findings of fact of the Board conclusive if there is any evidence to support the findings. The court upon review may, of course, consider all questions of the constitutionality of the substantive law applied and of the procedure used, failure to observe the procedure required by the law, the proper interpretation and application of the law and regulations, and the validity of rulings upon the admissibility of evidence. Circuit Courts of Appeal are authorized to make rules for the filing of appeals from the Board, including the preparation of the record. Until the adoption of such rules the rules of such courts relating to appellate proceedings upon a writ of error shall apply so far as applicable.

The taxpayer upon appeal from the Board may either pay the amount of tax found due by the Board and obtain a refund if the Circuit Court of Appeals decides in his favor, or he may obtain a stay of collection by filing a bond with surety approved by the Board. Venue of appeals in the case of individuals is to the Circuit Court of Appeals in the circuit whereof he is an inhabitant, or if not an inhabitant of any circuit, then to the Court of Appeals of the District of Columbia. In the case of corporations, the venue is to the Circuit Court of Appeals for the circuit in which is located the office of the Collector of Internal Revenue to whom the return was made, or, if no return was made, then to the Court of Appeals of the District of Columbia. All non-resident aliens and foreign corporations having no principal place of business or office in the United States take their appeal to the Court of Appeals of the District of Columbia. Provision is made that, under agreement between the Commissioner of Internal Revenue and the taxpayer, appeal may be taken to any Circuit Court of Appeals or to the Court of Appeals of the District of Columbia.

Many other changes of interest to the tax lawyer are made in the procedure for the assessment and collection of taxes, which are too complicated for inclusion in a general statement of the Act, but which are explained at length in the reports of the

Ways and Means Committee of the House (Report No. 1), of the Finance Committee of the Senate (Report No. 52), and the statement of the Conferees on the part of the House (Report No. 356).

Organization and Procedure of Board of Tax Appeals

The 1924 Act provided that after June 2, 1926, the membership of the Board should be reduced to 7. The new Act fixes the membership at 16, which is the present membership of the Board, and increases the term of office from 10 years to 12 years. It also increases the salary from $7,500 to $10,000. The provision of existing law prohibiting members appointed after June 2, 1926, from practicing before the Board or the Bureau of Internal Revenue for a period of two years after leaving office has been removed from the law, being replaced by a provision prohibiting a member of the Board removed from office for inefficiency, neglect of duty or malfeasance in office from practicing before the Board at any time.

Provisions relating to the internal workings of the Board have been somewhat modified and the power of the Board to non-suit the petitioner has been made clear. It is provided that the rules of evidence in proceedings before the Board shall be those applicable in courts of equity in the District of Columbia. In order to permit the courts on appeal from the Board to determine whether or not the Board has erred in admitting or excluding evidence it is necessary to have some definite rules by which the decisions of the Board may be tested. It was obviously inadvisable to have the question determined by the law of the State in which the Board happened to be sitting. The impossibility of obtaining an agreement in Congress that the laws of any particular one of the forty-eight States should be followed is the reason for subjecting all parties before the Board to the necessity of discovering the rules of evidence in the equity courts in the District of Columbia.

The old law required the the Board to write an opinion, in addition to the findings of fact and decision, in all cases where the amount of tax involved was over $10,000. The new law requires a written opinion only when deemed advisable by the Board.

Statute of Limitations

All income and estate taxes imposed by the new Act must be assessed within three years from the time of filing return, as opposed to four years under the 1924 Act. It is hoped that within a few years this period may again be shortened.

In an effort to overcome a decision of the Court of Claims (Toxaway Mills v. U. S.), which apparently holds that taxes collected by distraint or a threat thereof after the statute of limitations has expired may not be recovered by the taxpayer unless he has actually overpaid the tax, the new Act, in section 1106, provides that the bar of the statute of limitations against the United States shall not only operate to bar the remedy but shall extinguish the liability. The statute further provides "but no credit or refund in respect of such tax shall be allowed unless the taxpayer has overpaid the tax." In view of the statement and report of the Conference Committee that this provision is intended to overrule the Toxaway case, it is obvious that this is intended to prohibit recovery of refunds only in cases of amounts collected within the statutory period against which there is a set-off of a deficiency not assessed before the statute of limitations on assessments has expired.

Estate Taxes

The maximum rate is reduced from 40% to 20% and the exemption is increased from $50,000 to $100,000. Under the 1924 Act a credit on the tax is allowed for death duties paid to any State up to 25% of the Federal tax. The new Act increases this to 80% with the purpose of encouraging uniform action by the States. It is believed that if the States take full advantage of this provision the Federal revenue will be not over $20,000,000 a year as opposed to over $100,000,000 under the prior law.

To make up for the repeal of the gift tax the new Act provides that all gifts made, without a full consideration, within two years prior to the decedent's death shall be included in the gross estate whether or not made in contemplation of death. A similar provision in the laws of Wisconsin (except that the period was six years prior to death instead of two years) has just been declared unconstitutional by the Supreme Court. (Schlesinger v. Wisconsin, March 1, 1926). The administrative provisions of the estate tax have been rewritten in substantial conformity with the corresponding provisions of the income tax title and the same provisions for review of decisions of the Board of Tax Appeals by the Circuit Court of Appeals which applied to income taxes are applicable to estate taxes.

Joint Committee on Taxation

Section 1203 of the Act establishes a joint Congressional committee composed of five members of the Finance Committee of the Senate and five members of the Ways and Means Committee of the House, with authority to employ expert and clerical assistance to any extent it deems advisable. It is made the duty of the Committee to investigate the operation and effect of the Federal system of revenue taxes, and its administration. The Committee is to report from time to time and is required not later than December 31, 1927, to make a report on measures and methods for the simplification particularly of the income taxes. The joint committee is given the right to inspect income tax returns, and may report any information obtained to the Senate, the House of Representatives, the Committee on Ways and Means, or the Committee on Finance.

Tax on Foreign Built Yachts

An interesting example of an internal revenue tax intended to take the place of a tariff duty is found in section 702. The 1924 Act imposed an excise tax upon the use of yachts and pleasure boats over a certain size. The new Act confines the tax to foreign-built boats and doubles the rate of tax, the provision being designed entirely for the protection of the domestic boat builder, inasmuch as foreign-built yachts are not subject to tariff duty.

Miscellaneous

The Act makes numerous other changes of an administrative nature, such as sections 1116 and 1117 revising the law as to allowance of interest on refunds and credits, section 1129 authorizing seizures by Collectors of Internal Revenue in adjoining districts in the same State, and section 1130 determining the time at which distraint shall be held to have been begun for the purpose of determining the running of the statute of limitations upon distraint.

SPECIAL MEETING ON BAR ORGANIZATION HELD AT WASHINGTON

Delegates from State and Local Bar Associations Gather at Call of Conference of Bar Association Delegates to Discuss Important Subject—Reports of Working of Statutory Organization Plan in Various States and of Moves for Its Adoption in Others Received—Grounds of Opposition Stated by Certain New York Representatives—A Spirited Debate—Resolution Adopted

By Herbert Harley
Secretary Conference of Bar Association Delegates

THE following quotation from the opening address of Chairman Charles E. Hughes expressed concisely the spirit which prevailed at the special meeting of the Conference of Bar Association Delegates at Washington:

> "The dream that we have, the vision we have—don't let that fail—of lawyers together feeling that the interests of the profession are not the interests of a minority, but are the interests of all, feeling a duty to establish and maintain standards and willing to discuss with anybody the way to do it, but *intent that it shall be done.*

The meeting was held April 28, in the beautiful assembly hall of the United States Chamber of Commerce in Washington, and was attended by 163 delegates and members of the Executive Committee and General Council of the American Bar Association, coming from forty states. Two sessions were held and they lasted until nearly six o'clock.

The Conference of Delegates is a section of the American Bar Association. Its meetings are attended by accredited delegates of state and local associations throughout the country and these delegates choose the council and officers of the section. It is a forum for the discussion of numerous significant matters which fall within the province of state and local bars. Its power is limited to the adoption of resolutions recommending action by its constituent member associations. At no meeting during the ten years' existence of the Conference has there failed to be a spirited controversy, and this special meeting was no exception.

The reception accorded to the plan for integrating the several state bars with the aid of statutory organization has been various. In a number of states a grudging acceptance has become an enthusiastic espousal; in some a promising start has proved abortive; in others legislative efforts have been postponed to permit of the development of opinion. In certain states temporary defeat has been the signal for redoubled efforts to increase bar association membership on a voluntary basis. The experience in the state of Washington, where the federation of county bars with the state association has brought nearly every practicing lawyer into the organization, has stimulated similar efforts in certain states. But never in the seven years since the Conference endorsed the proposal had there been in any previous meeting of delegates sufficient opposition to dramatize the matter and so bring about a keen and thorough discussion of opposed beliefs.

The meeting was called to permit of an extended survey of the situation and general discussion and could not adopt a formula which would bind any constituent association or any future meeting of the Conference. The only resolution offered was that the Conference "recommends to the various state and local bar associations throughout the United States that compulsory, all-inclusive incorporation of the bar is a matter that should primarily and properly be determined by each state in accordance with its own existing conditions and its own traditions." This resolution was adopted. It is to be regretted that lack of space requires an abridgment of the remarks of a number of delegates who contributed ably and forcibly to the discussion.

Chairman Hughes' Address

WHAT I have to say will be brief and informal. This is a special meeting of the Conference to consider means for advancing legislative action officially organizing the state bars of the several states. This meeting was called pursuant to a recommendation contained in the report presented to the American Bar Association at its meeting at Detroit in September last by the Committee on State Bar Organization, and in that report this was stated:

> "We ought to have an opportunity to get before the representatives of the bar associations throughout the country the experience of the various state bars already officially organized with a view to comparing the terms of their various enactments, considering the drafts of bills pending in the various states, and possible constitutional objections that might be made under the provisions of any particular state constitution and methods of avoiding them, and work out a national program for bringing about general official bar organization at the earliest possible moment."

The committee continued:

> "The matter was placed before the members of the Council of the Conference, and it was agreed that it was highly desirable that for this purpose a special meeting of the Conference should be held, preferably in Washington, on the day preceding the next meeting of the American Law Institute, at which reports should be received from the various official state bars, information given as to the progress of state bar organization bills in the various legislatures where they are now pending or may hereafter be introduced, reports received on the recommendations of bar associations where the matter has been discussed, and that in the end such steps may be taken as may be considered advisable and likely to aid the movement. Such a meeting will at least inform the country as to what

has been and what is being done in the matter and will go a long way to speed the success of the movement."

It was in view of that recommendation that the Council of the Conference, with the concurrence of the Executive Committee of the American Bar Association, called this special meeting for the purposes stated.

This Conference, I understand, has at annual meetings approved the principle of state bar organization, and the precise purpose of the present meeting, as the call indicates, is to consider means for advancing legislative action to apply that principle and carry the purpose of the recommendations that have been made at these various annual meetings into effect.

This project has been motivated by a keen sense of the solidarity of the profession of the law, an appreciation of its standards and ideals, and an earnest desire to promote the administration of justice.

Whatever views may be entertained with respect to particular measures, all who are worthy of their position and privileges as members of the legal profession hold at heart these objects. We are justly proud, in this country, of the progress that has been made, notably in invention, in the applications of science, in research, in the manifold activities, far more important than any political activities, which give us the progress of civilization which we like to think has been more highly advanced in this country than anywhere else, so far as the standards of living and the degree of comfort of our people are concerned.

We also are gratified at the general success of the administration of justice. By that I mean we take pride in the peace, the stability, the good order of our communities, all of which rest upon the administration of justice.

When, however, we come to consider the progress that has been made in relation to the administration of justice with that which has been achieved in these many endeavors to promote the well-being of society by the application of knowledge and scientific research, we can not fail to be impressed with the fact that with respect to justice, democracy's highest concern, we lag far behind.

We are satisfied, in a general way, with the integrity and impartiality of our judges. We have made notable improvement in advancing the standards of legal education and the requirements for admission to the bar. We realize, however, that we are far behind the point where the intelligence and the ability of the bar should have brought us. Our ethical standards, however high they may be with those who in the main represent the activities of the profession, are lamentably disregarded by many others. There is a laxity in practice. There is too much dilatoriness in procedure. There is a regrettable lack of expertness and efficiency which ought to be supplied.

The administration of justice is the concern of the whole community, but it is the special concern of the bar. We are the ministers of justice, and no lawyer is worthy of any reputation in the profession, whatever his ability may be, if he does not regard himself first and last as a minister of justice in the community in which he practices.

We are not commercial in the sense that commercial gains give our highest motive. There is no lawyer worthy of the name, but is constantly turning aside opportunities where, if gain were the mere object, he would be glad to embrace them, because they do not accord with his idea of the standards of professional conduct that he should maintain. We constantly know, without disparagement of the standards of the business community, that it is almost invariably the lawyer and not the client who stands for the highest standards of conduct in business. There are many who disgrace their profession by endeavoring to promote schemes which are indefensible either in law or in morals, but in the main I make bold to say the lawyers are the conservators of good faith in the community, and the community could not maintain the standards of honor in business dealings which are maintained if it was not that they are in the special keeping of the bar.

Now, we have accord upon those matters, and the question is how we can make progress in promoting a better administration of justice. This Conference has believed and has recorded its belief for many years that progress could be made through an organization in each state of the bar of the state which would be all-inclusive and which would bring all lawyers into a sense of their obligations and with a higher opportunity to exercise their privileges through membership in a state organized bar.

We have to confront many difficulties in connection with such a plan. Difficulties differ in different communities according to constitutional requirements and with reference to legislative practice, with regard to the general traditions and opinions of the bar.

Of late, there have been important, influential voices raised in opposition to the plan. I think the objections which have been urged spring from two fears: first, the fear that the plan will not work, and, second, the fear that the plan will work. I think that sometimes both fears are entertained by the same person.

Lawyers are never committed to consistency in argument. They are quite content if they can present any ground which will support a decision in their favor. They are quite well aware that judicial reasoning may not follow in the line of their own reasoning, and hence they hesitate to commit themselves to any particular line of thought as against another which may prosper their ultimate purpose.

That disposition of mind is often carried forward into other fields of discussion. The fear that this plan will not work is a very important matter to reckon with. I think it deserves the most serious consideration. It is said that we have, in some of our large cities, organizations of the bar which are practically open to all, but there is a great indifference on the part of the members of the bar to taking advantage of the privileges that they offer. That is undoubtedly true. It is said you can not overcome the inertia of the great numbers of lawyers who do not feel their responsibility. It is said, repeating a truth which in democratic society cannot be too frequently uttered and emphasized, that you can not establish moral standards, opinions, by legislative fiat. You can't legislate into lawyers a sense of their duty. You can't compel them to recognize standards by making them members of a state bar organization. There is a great deal of truth in the statements that are urged in support

of the position that the plan will not accomplish the purpose that has been desired.

There remains, however, the question; What are you going to do about it? Because the entire bar can not be energized, is it desirable to omit every sort of effort which may tend to energize it? The sense of privilege goes with the sense of responsibility. If you find that members of the bar are generally indifferent to their duties, are you going to succeed in interesting them in promoting a higher conception of their position as ministers of justice by absent treatment? Isn't your function that of injectors of a wholesome serum into diseased bodies? Is it your desire to accomplish something by dealing with them from the outside, or to create a better sense of solidarity in professional relations?

Those who have been in favor of this movement have felt deeply the fraternity of the bar. They have sought in this way, although recognizing the fact that it will probably fall far short of what is desired, the great importance of feeling and having it felt throughout the profession that we are members one of another, that if any one who is a member of the legal profession fails, it is a stain upon the profession. We are busy; we are aloof; we have all we can do to attend to our own affairs; but we either have the sense of this obligation or we have not, and the question is, to what extent can we promote the spirit of fraternity? But this plan will fail, it can not prosper, unless there is a preponderant sentiment of the bar behind it. It must have, if it is to succeed, underlying it, the conviction of the necessity of doing something, of bringing lawyers together, of even having the small gains that may be made in this way.

This can never be achieved in any state by a divided bar, in the face of controversy. We are not here for controversy. We are here to exchange views as men who desire the same objects and wish to confer and take counsel together.

Then there are those, as I have said, who fear that the plan will work. They have very gloomy pictures of a bar not indifferent but so brought together with a sort of tidal wave of professional sentiment that they will submerge the activities and the wholesome association of a voluntary sort of which those who have the privilege of belonging to such associations are justly proud. In other words, we have the spectacle which vexes the imagination of a great many of our good friends, of a state organized bar taking the property, the interests, and absorbing the activities of voluntary associations which have been most helpful in their communities; that is, it is a fear that this plan will work, that there won't be indifference, and that the voluntary associations will be left to do the work despite this organized effort which will stand on one side, an abortive affair, but they will have to reckon with it as something threatening their influence, their prestige, perhaps their very existence.

If I may be allowed to say, in this spirit in which I hope we will all share in entering upon this discussion, I should like to see it made a provision in any bill that provides for state organization, that no voluntary association should be compelled to join it or should be affected in any way by any activity of the state bar in its property, interests, or organization, without the unanimous consent of its members. I should like to see our city organizations and our county organizations, that fear that this effort may in some way prejudice them, relieved of that apprehension by some assurance that nothing will be done prejudicial to them.

I speak, of course, from the standpoint of one who was for many years identified with the Bar Association of the City of New York and with the County Lawyers Association of the County of New York, and I know well the splendid work that has been done.

Take the City Association, for example, starting at a time of low civic interest, with tremendous aggregations of plunderers in charge of New York, and represented by the leaders of the bar in cleaning up that city in the time of the Tweed régime. I think the history of New York will never be written without registering the sense of obligation of the City of New York, not merely the profession of the law of the City of New York, to the Association of the Bar. It possesses a great building, a wonderful library, important privileges. It ought not to be impaired or have any one indulge a reasonable fear of impairment in its interest.

Similarly, the county organization in New York, which is on a very broad platform by which almost anybody can become a member on payment of a relatively small fee, has done an important work. It is contemplating the erection of a building. It naturally is apprehensive lest it should suddenly find itself removed from its sphere and put into an organization which its Council does not want. It ought to be disabused of that fear.

To repeat, this will not succeed in any community where the bar is divided and preponderant opinion does not support it. Let us also remember (which sometimes some of us from New York tend to forget) that New York is not the United States. Let us remember that problems similar to those that we have in New York City probably obtain in some of our other large communities with bar associations. Let us also remember that there are many states which apparently are ready for a movement of this sort, where it is needed, where those apprehensions are not indulged, where the organization of the bar might have a wholesome effect in producing a better conception of the duties and responsibilities of the profession.

This meeting is called, as I have said, to consider the means for furthering the general purpose. I hope that there will be a free discussion. We have not provided a series of papers. There have been papers enough. We are here to talk the thing over as reasonable lawyers.

Now, I know perfectly well that the first thought in the mind of any well prepared lawyer is: "I object!" But the way to get on with these matters, and of course you appreciate that as well as I, is to see whether the objection is well founded. There is nothing arbitrary about this. I have been talking recently in this city to the Society for the Codification of International Law, so I am well accustomed to processes which are destined to be slow. We can have this with us probably as long as we will. But the matter is to be taken up by states. Different conditions obtain in different states. The dream that we have, the vision we have—don't let that fail—of lawyers together feeling that they are members of a profession, feeling that the interests of the profession are not the interests of a minority, but are the interests of all, feeling a duty to establish and maintain standards

and willing to discuss with anybody the way to do it, but intent on getting it done.

The program, the order of business, as decided on by the Council, is this: We shall first have the report from the Committee on State Bar Organization; then reports from state bars of the several states in which the bar of the state has been officially organized under legislative enactment; then reports from state bar associations where the subject matter has been acted upon or is still under discussion; then reports from other associations of the bar, that is, other than state bar associations, with respect to the same matter; and then a general discussion of the advantages to be gained through official state bar organization.

Before calling for the first order on this program, I have very great pleasure in reading this letter which I have just received from the Chief Justice of the United States:

SUPREME COURT
of the
UNITED STATES
Washington, D. C.

April 27, 1926.

My dear Mr. Chairman:

I am very sorry that I can not be with you at your meeting to discuss the wisdom and the need of a more thorough organization of the bar into associations. The power which the bar could exercise for good in the framing of much-needed reform measures of procedure is known to every one of us. Such associations are formed too often for merely social enjoyment and fraternization, with but a subordinate purpose to secure needed self-discipline and to influence legislative bodies to real reform measures of legal procedure. While there may be room for improvement in the average courage, ability, learning, and industry of our judges, any one who has followed closely the administration of justice among us knows that the most glaring defects can only be remedied by carefully drawn legislation, giving to the judges the means of expediting the disposition and conclusion of litigation. This is especially true in enforcing the criminal laws. The machinery by which men who are accused of crime may be promptly tried, and, if guilty, punished, can be greatly bettered. I am glad to note that the New York legislature has been finally roused by the startling record of unpunished crime to adopt some measures to take away the sense of immunity which professional criminals feel in respect to robbery and murder. Well paid criminal lawyers are able to delay prosecutions and to secure oblivion in respect to crimes by release of defendants on bond, because of the pressure for the immediate trial of less fortunate and less important criminals who are unable to give adequate security. Lawyers in the legislatures of the states too often forget the interests of society in an effort to preserve the rights of those accused of crime by unnecessary provisions making for delay and technical obstruction. If the bar associations devote their time to such matters, their views interpreted into legislation will make for great improvement. Every conscientious member of the bar, therefore, should make himself an active member of his local bar association, his state bar association and the American Bar Association, and do his part by committee work and attendance in helping society in this matter.

Consider one important step forward that might be taken at the instance of the bar associations. They ought to press for a repeal in a number of the states of legislation which now restricts the opportunity of the judge to exercise proper control in the trial of cases and withholds from him a useful and necessary freedom in advising juries as to the law and its application to the facts of the case, and makes him merely a nominal factor in the trial. The ineffectiveness of the judges' functions in jury trials in such states is one reason for the demoralizing verdicts which are reported to the press. Unless real influence in the trial is entrusted to the judges, it passes to the counsel engaged in the case, and too often in criminal cases to the counsel for those defendants who have money enough to command the services of the most experienced and acute and masterful criminal lawyers. All this leads to the discouraging results we have seen. The bar of such states by united and organized effort could do much to remedy such conditions by securing needed legislation.

Sincerely yours,
[Signed] WM. H. TAFT.

Hon. Charles E. Hughes, Chairman,
Conference of Bar Assn. Delegates,
Washington, D. C.

We are now ready for the regular order of business, and I will first call upon Judge Goodwin for the report of the Committee on Bar Organization.

Report of Committee on State Bar Organization

FOLLOWING are pertinent extracts from the Report of the Committee on State Bar Organization which was read immediately after Mr. Hughes' address by Chairman Clarence N. Goodwin:

"It has been the purpose of the committee, which at six annual meetings has been approved by the Conference, to secure legislative acknowledgment of the right of the bar to govern itself, subject to the constitutional control of the courts and the plenary and inalienable authority of the legislature. There cannot be a moral obligation where there is no power to discharge it. We are, as stated, held responsible by the general public for the shortcomings and for the misconduct of our unworthy members and as we are held thus responsible we should be given the power to discharge the obligation. But it is not merely the question of how the public views our obligations, but more particularly how we view them ourselves. We are members of a profession which has in all ages struggled to maintain the highest ideals; as a profession our guiding thought has always been fidelity to clients, devotion to the public interest. Mr. Nicoll, in the remarks quoted a moment ago, referred to the fact that we are conservators of justice, sworn officers of the courts. We are in fact as much a part of the courts as the judges themselves since we are the moving and advising members of the courts whose adjudicating members act in substantially every case upon the motion and counsel of the members of the bar. We are in law as well as in fact a body of officials daily performing an important governmental function absolutely essential to the administration of justice, which is the very foundation of all civil government. The proper performance of our duties requires character and fitness in our members, high ideals of duty strictly lived up to, and power in the general body to see that the members meet these requirements. It is a matter of the greatest moment to the public that the work of the lawyer, its counsellor, its representative in court, its fiduciary and trusted agent in all matters pertaining to the law, be performed efficiently, honestly and with fidelity.

"Let us face the facts. There are members of our profession who prey upon society, who take advantage of the fiduciary relation to betray and to exploit those who come to them for advice and assistance. They are few in number but their existence smirches the entire profession. There are criminals lawyers who are not only criminals in the sense of defending criminals and practicing at the bar of the criminal courts, but who are themselves criminals, and they deal in duplicity, chicanery, fraud, subornation of perjury, corruption of juries, and sometimes, through insidious means, the improper influencing of judges themselves. There are dealers in perjury, chicanery, fraud, and imposition in our bankruptcy courts. They are all, while few in numbers, a poisonous source of corruption in the nation, destructive of confidence in the administration of justice and in the righteousness of the government itself. This source of evil must be destroyed. The question constantly presented to the committee is whether it can be destroyed by the present means, and the conviction, strengthened by each succeeding year in the seven years during which the Conference has had this matter under discussion, is that it cannot be, but that the present means must be supplemented by additional means of proved effectiveness.

"Our present means of bar regulation and bar discipline has been the action of the court instigated in some instances by the law officers of the state and in others by the voluntary bar associations and through the action

of the grievance committees. In spite, however, of most earnest efforts one hundred and fifty years of discipline through the courts, with the aid of the agencies we have referred to, leave us with conditions which we deplore.

"Let us emphasize the point here that the most important means, so far developed, has been that of bringing the members of the bar into organized groups and holding up to them year by year the high ideals and the lofty traditions of the legal profession. But after 56 years of experience, 56 years of the most strenuous and self-sacrificing effort, the great majority of the bar remains outside of these voluntary groups and very largely outside the sphere of their influence.

"The equally unfortunate fact remains that among those outside the bar associations—and they comprise at least two-thirds of the bar—there are many who are definitely in need of the inspiration and restraint which comes from close professional fellowship. We would not for one moment reflect upon this outside group as a whole. It is a group which in the main is fundamentally honest and devoted to the ideals of the profession. We believe in the American bar; we believe in its honesty, and integrity as a whole. We believe that, man for man, there is not a group in all the world more devoted to its professional ideals, more loyal to its conception of professional duty, more willing to make sacrifices for the public. If this were not so, hope for an ultimately efficient, satisfactory and impartial administration of justice would be gone, for if the great mass of our profession were not sound at heart there would be no power in all the world to restrain or redeem it.

"We turn to the experience of the bar of England, the bar of Ireland, the bar of Canada, and the bar of France. We cannot believe that the men of these countries who seek admission to their bars are sounder in morals, more devoted to a sense of duty, or more intelligent than those who seek admission to our own; but the fact remains that those bars maintain and enforce their standards; ours do not. The one distinguishing difference in this regard between those bars and our own is that those bars are self-governed and ours are not. The counsellor, or the advocate, or the barrister who is admitted to one of those bars becomes not merely a lawyer entitled to go into court and to practice law, but he becomes a member of an institution, he becomes a fellow of the profession, he is given a voice in its government, he has a high privilege of performing a great and essential public duty, but he knows that with that privilege and the privilege of fellowship in that institution go duties to the institution, duties to the public and duties to the client, which that institution will see are performed.

"It must be remembered, however, that self government and self discipline is only one of the obligations resting upon the bar as a whole, which it has found impossible of performance in its present incohesive state. The bar, like the bench, is an essential instrumentality in the administration of justice and the effective and satisfactory administration of justice depends upon the adoption of a practice and precedure, civil and criminal, which will result in not only impartial, but speedy, decision. That in many of our states the delays in the adjudication of causes have justified the maxim that justice delayed is justice denied, is a matter of common knowledge, and we are rapidly being forced to the conclusion that if changes are not effected in our criminal procedure, our law will lose its sanctions, and life and property their protection. There ought logically, therefore, to be some method by which the bar as a whole, through its authorized committees and commissions, might examine and pass upon ways and means for the improvement of the administration of civil and criminal justice, and when it had arrived at conclusions, speak authoritatively for the bar as a whole to the courts and to the legislature. Obviously where the government of practice and procedure is vested in the legislature, it must accept the responsibility of passing upon those subjects, but the bar as the bar ought to be articulate and ought at least to have the power of expressing itself, and of expressing itself officially.

"The great vice in the present situation is the fact that nearly every recommendation of a voluntary bar association is met by the all too persuasive objection that it comes from a small and non-representative class of the bar without right or authority to speak for the profession as a whole. The conclusive proof of the effectiveness of this argument is found in the constant refusal of the legislatures of the states to follow the recommendations of our voluntary organizations.

"What competitive proposal is there? There is absolutely no other fruitful idea in the field. The federation of local associations with state associations is not competitive but is a means to the end we stand for. This plan of the federation of the local bar associations and the effort that has been put forth to increase by this means the membership in the combined voluntary organizations of a state, is in itself an illustration of the advantage instantly to be gained from the creation of an integrated, unitary, self-governing bar for in such a bar its membership becomes co-extensive with the number of the lawyers in the state, and the chief difficulty of organization, namely, of holding together a membership and securing the payment of membership dues disappears and leaves the officers, the boards and the committees of the bar free to devote themselves to the accomplishment of the ends for which it exists."

Report of Proceedings

Alabama Reports

THE order of business announced by the chair called for reports from states which have adopted bar organization statutes, then the remaining states and finally local associations. Alabama responded first through two delegates, Henry Upson Sims and Edmund Beckwith.

Mr. Sims said that prior to the enactment the voluntary association had much greater powers than those in other states. "We believe in Alabama in benevolent autocracies, whether it be in the Democratic Party, Mr. Chairman, or whether it be a professional organization. Perhaps it would interest you to know that the Alabama Medical Society is the most completely organized medical society in America, and, I think, in the world. . . . They elect a Council which dictates the quarantine laws of the state, and the State Health Officer is designated by the Alabama Medical Society with all the statutory powers incident thereto. So there was no particular reluctance on the part of the Alabama legislature to give the bar approximately similar powers to those of the Medical Society."

"We accomplished two things. . . . First, we are put in absolute control of admission to the bar, and we are put in absolute control of disbarment. . . . We previously had the power, through our Council, to prosecute for disbarment and to require any prosecuting officer in any county to prosecute, but the respondent had the right to a jury trial. Under our new act he has not the right to a jury trial. Our own Council of the bar tries him, and if it decides to disbar him, it disbars him, subject to his right of appeal to the Supreme Court, because the Supreme Court must necessarily strike him from the rolls. We feel that that will be perfunctory." For ten years previously there had been a commission appointed by the governor to admit to practice. It was insisted that this right should be transferred to the official state bar, and it was done with the proviso that the provisions for admission should stand until changed by the State Bar and approved by the Supreme Court. It is expected that approval will be perfunctory, when any change is proposed. "We are progressing under our act as we expected to. We had only one fear, that taking the administration of the bar out of the hands of the old crowd, the benevolent autocracy, it might get into other hands because the Council might run the risk of control by insurgents, or something of that kind. I am glad to be able to report that the benevolent autocracy continues in possession under the new law. Therefore I think we are safe." Mr. Sims also reported that the Birmingham Bar Association continues to exist and function as a voluntary body. "We have our property, our library, and membership in it is absolutely voluntary. It doesn't interfere in the slightest with our membership in the State Bar."

Mr. Beckwith dealt with the "question of the small, voluntary, intellectual association of lawyers undertaking to get a legislature to listen to it for the making of rules of procedure, and the usual courteous dismissal of the minority by the committee on judiciary or committee on legislation with a casual nod, and if there was any legislation, it was a worse mess than before." But under the new dispensation "we have progressed not alone with the control of admission and with a tightening of discipline, with a control of disbarment, suspension and reprimand, but there is a very definite and distinct atmosphere which indicates even to the casual observer that the next session of the legislature will be much readier to listen to proposals for the improvement of machinery of judicial administration than any have ever been.

"Out of that it seems to me that the two alternatives presented to this Conference become relatively simple: shall we

have minority organization or shall we have a majority of the bar in control? I use those two words deliberately. We shall never have control till we have a majority of the bar and the experience of fifty years has demonstrated that we shall never have that majority under voluntary organization. . . . The next question is also simple: is there anything dangerous in letting the rest of the lawyers in where we are? Every lawyer necessarily believes in the fundamental righteous sense of justice of the ordinary man, and no lawyer ever went into court without a hope and a definite belief that by human means and at the hands of ordinary men he was going to get justice sooner or later. And yet it is suggested here and there that if we turn a state bar association over, not alone to ordinary men at whose hands we must seek justice every day, but turn it over to lawyers themselves, trained in the science of justice, we shall immediately submerge all of our institutions and lose the whole of our machinery of justice. We couldn't believe that any such thing could happen.

"Mr. Sims used the amusing term about a benevolent autocracy. There has always been and always will be the autocracy and the aristocracy of brains and morals. It will always be benevolent and it will always control. There is no getting away from the accumulated facts of human experience and it seems to me that our three years of experience is valid evidence . . . that even the coldest logic of the most finely tempered legal mind cannot ultimately dispute that when you give a majority of the bar control, you put that control in the most capable and the most conscientious hands that the state can have in its service."

North Dakota's Experience

North Dakota was represented by Mr. O. P. Cockerill, Dean of the State University School of Law, who said: "In 1921 the legislature passed an act organizing all practitioners of the state into a corporation. It was forced upon them . . . The following legislature amended the act, reducing the annual fee from $15 to $10 . . . and providing for the Bar Board, which is a board of admissions to the practice of law. The candidates are nominated by the members of the State Bar Association. From the nominees the Supreme Court selects three men. So far the court has always selected the three receiving the highest vote." The Bar Board has also the duty to originate investigations concerning lawyers who are complained of. Through its selection of the members of the Bar Board the State Bar "itself has practical control of admission and of disbarment. . . ."

"Through the energy of the State Bar Board in 1923, the second year that the State Bar Association was in existence, they adopted for the state the same requirements for admission that had been recommended by the American Bar Association. That, however, has not got any further than the State Association. The legislature has not been brought to the point of receiving it. We are just a little afraid yet of the legislature." The speaker then said that there was not a scrap of evidence of the existence of the state voluntary association from its organization in 1899 to 1921, but that full reports have been published regularly by the new inclusive bar.

At the last annual meeting 250 members registered out of a total bar of 524. Half of the annual license fee of $10 goes to the Association. "The Bar Board has had little trouble in preventing lawyers who refuse to pay the $10 from practicing. The clerk sends the list to them and if any man is practicing whose name is not upon the list, a complaint is made by the Board to the Supreme Court, and the gentleman is given notice. On every occasion so far the $10 fee has been paid or the delinquent has retired from practice for the year. . . . The State Bar of North Dakota is taking an interest in its annual meetings, something that it had not done before. . . . It has not interfered at all with any local bar association. . . . It has put energy into and helped to solidify and unify the bar of North Dakota."

There was no representative present of the official state bar of Idaho, where the first act was held invalid and was succeeded by a perfected law under which the bar has adopted, with approval of the Supreme Court, rules concerning the management of the bar, rules for admission, rules for conduct and rules for discipline.

The New Mexico State Bar

United States Senator S. G. Bratton reported very fully concerning the statutory bar of his state, established in 1925. Administration is vested in nine members of the Board of Commissioners for the State Bar, one to be chosen in each judicial district by the ballots of the members. "The Board has full power to determine and prescribe by rules and regulations the qualifications and requirements for admission to the bar; to fix the fee to be charged applicants, to adopt and enforce rules governing the conduct and duties of members, and to investigate and pass upon all complaints of unprofessional conduct of any member. The statute gives the Board power to establish rules governing procedure in cases involving alleged misconduct of members, including the power to create committees for the purpose of investigating charges and complaints. Such committees are clothed with authority to issue subpoenas and compel the attendance of witnesses and administer oaths. The Board is given power to take proper disciplinary action by public or private reprimand, suspension or disbarment but in case of suspension or disbarment the Supreme Court may review the action, and may upon its own motion, without the certification of any record, inquire into the merits of the subject matter and take such action as may be agreeable to its judgment."

The Board of Commissioners is empowered, with the advice and consent of the Supreme Court, to appoint three members as a special committee on admission. "This has been done and the Commission is functioning in a splendid manner. The bar, as well as the state generally is receiving excellent results. A standard of requirements for admission has been evolved which compares favorably with that of any state. . . . The first annual meeting under this act, held last year, was one of the best ever held. . . . Members came from the four corners of the state and every minute was consumed in considering matters of vital interest to the welfare and advancement of the Association. . . . The Board now serving is composed of nine of the ablest and most outstanding attorneys of the state. They have given of their time and effort unreservedly. . . . The members of the bar, with rare exceptions, support the new law and believe it will facilitate higher standards, purer ethics, and will bring about more confidence in members of the bar and a more wholesome respect for the profession." The act protects both as to discipline and admission by vesting in the Supreme Court power to modify or annul any rule on either subject. It guarantees a recourse to judicial authority. Senator Bratton concluded with an unreserved commendation of this method of organization. "Urge upon members of the bar in other states to adopt this method of securing better results, thereby accomplishing in a uniform way some of the steps of progress we all desire so much."

The California Situation

Mr. Joseph J. Webb, chairman of the committee of the California State Bar Association charged with drafting a bar act and securing its adoption, crossed the continent to tell most informatively of the remarkable campaign which he supervised, leading to adoption of a strong act with only eleven dissenting votes in the legislature, and finally to the governor's veto. He said that the effort would be renewed in the next session with bright hopes for success. The subject was first discussed in 1917 and in 1920 a committee was created. A bill was introduced in 1921 but not passed. In the fall of 1922 public lack of confidence in the bar was revealed by a popular vote killing an act to prevent practice by trust companies. The State Association took stock and prepared for a most thorough campaign. It was agreed that without legal authority the existing voluntary associations could not discharge their public duties. A letter from Mr. Justice Richards, of the Supreme Court was read, wherein he said: "The courts should not be called upon to pass upon the qualifications for membership in the bar. The bar itself should determine the qualifications of its members and should, by the operation of its regulations, cause membership in the bar to cease when the character and qualifications of a member fail to attain the standards set by itself." A resolution was adopted favoring the plan by the Judicial Section and every member of the Supreme Court went on record as approving the idea on principle. "The underlying principle of the campaign was unremitting effort, toil, and work. . . . We left nothing to chance in so far as human foresight could anticipate."

After the best bill possible was drafted the committee studied constitutional questions and also practical objections. The endorsement given by the fall meeting in 1923 was by possibly 75 members of the bar of the state, less than one per cent. of the bar of the state attending the meeting. It was only a start. The state was districted and plans made for winning four classes: lawyers, editors, legislators and the public. Local associations were visited and where there were none a judge of the Superior Court was asked to call a meeting. Representatives of the press were invited to all meetings and editors were specially interviewed. The public was reached through every sort of organization, chambers of commerce, Rotary Clubs, labor unions. Wherever there was a large meeting the committee sought a hearing. "Meeting the public frankly, they met us in the same way, and we did receive their cordial and hearty support."

Finally winning the legislators involved great effort. Each member received not only a special pamphlet but a personal

letter from an acquaintance. The district attorney's convention endorsed the bill. When the session was held a joint meeting of the two judiciary committees was held and the bar was represented by its strongest members.

The result was a unanimous vote in the senate and a vote of 65 to 11 in the house. When the governor hesitated to sign the committee saw that he received thousands of letters and telegrams.

Mr. Webb said that the committee met with sincere opposition and also with deliberate misstatements of fact concerning the bill. "I sincerely hope that the American Bar Association and the committee in charge of this work will not become discouraged because of the slow progress made. As has been said, you cannot legislate morals or ideals into any one. But we believe that by bringing the members of the bar into closer contact, by acquainting them with professional problems, in time we will create a greater interest in professional matters and through that course of contact, through better organization, we will create that *esprit de corps* which will ultimately solve our problems. . . . The proper administration of justice rests wholly upon the bar. . . . When you consider the importance of this question you must, and I believe you will, press forward until all the states of the Union realize that a self-governing bar such as is provided for in the Alabama act and California bill is the one way of accomplishing the desired results."

Report from Georgia

Mr. A. R. Lawton reported that interest in bar integration has grown out of reports of the Committee on Ethics and Grievances and the chairman of that committee has been made chairman of the new Bar Organization Committee. Of its five-members three attended the Conference meeting.

Illinois Bar Situation

President Montgomery reported for the Illinois State Bar Association, saying that it has a two-thirds majority of all the lawyers outside of Cook County, while the Chicago Bar Association, with which it co-operates in many matters, has as large a proportion of the active practitioners of its district. The State Association has a Committee on Bar Organization. The speaker said that "a class of fair number, a small minority of the bar, are openly and flagrantly violating the traditions of the profession and the canons of ethics but not in such manner that it seems feasible to file informations which would disbar. . . . The few of those with whom I have talked in the Chicago Bar Association Board of Managers and the Illinois State Association Board seem to think that what we would accomplish by the incorporation of the bar would be to bring in those who care nothing for the ideals of the profession, and we doubt if by legislation we could compel them to do so, and that is the class whom we now exclude because they would distinctly lower the standard of the profession."

Iowa

In Iowa, Mr. J. C. Pryor, Jr., said, the matter of bar organization by statute had been endorsed on principle when the special committee reported in 1924. The matter was referred to the Executive Committee for drafting, which work had been deferred until after the holding of the present Conference meeting "with the idea that we might profit by the experience related here."

Kansas

Mr. George T. McDermott cogently and entertainingly told how Kansas had made a start way back in 1919, "getting off a little ahead of the gun." In the two succeeding years the committee's recommendations were defeated in the State Association, the second time in a struggle lasting an entire afternoon, when the opposition mustered a majority of about six votes out of about 200. Recently the movement has been revived. Mr. McDermott reviewed the adverse arguments: that the bar of Kansas is pretty good now; that the proposed state bar had no real function to perform; that disbarment was in the hands of the State Bar Board appointed by the Supreme Court and that disbarment was a judicial function; and finally the tremendous objection urged by Bill Cannon of the Wichita bar that he didn't "propose to let any young squirt dictate to him about how he would practice law."

The trouble about discipline is that the Bar Board meets but twice a year and has no remedy but disbarment. "There are many young men who have started off on the wrong road. They have not gone far enough that they should be branded with disbarment . . . and yet in that Bar Board there is no means for reprimanding, there is no means for calling them before it and pointing out the way they should go. . . . To give the Bar Association the power to deal not only with those who need disbarment but also with those who need education was one of the particular things that we tried to do. . . . Lawyers of Kansas don't like to have their right to practice law interfered with by an association of any kind. But when this great organization continued to receive the same report repeatedy from Judge Goodwin, when Alabama and California and these other states made progress, we took stock last year, and a committee was appointed at our last meeting to go into the question again. And, while I wouldn't swear to it, as I had occasion to say one time on the witness stand, I will bet on it that we will pass it next year."

Kentucky

On behalf of the Kentucky State Association Harry B. Mackoy told of the work of a committee of which he is a member to draft a bill which would omit as far as possible matters likely to raise needless opposition. The committee intends to devote this year to enlisting the interest of all lawyers and the next year to educating the public to the end that the draft act may be adopted in 1928. "Our committee decided that it would not be necessary or advisable to provide for the incorporation of the bar, but that it should be understood to be a body politic. This would obviate objections that might be made to the creation of a corporation under a special act, or to the alleged delegation of powers given by the act to a corporation, including the spending of money for alleged non-governmental purposes, and would furthermore eliminate the idea that a caste is being created by our profession. If the bar is regarded as a body politic and its members are performing certain functions as officers of the court and quasi-officers of the state, may it not be said that it . . . has a right to govern itself, subject to the control of the legislature and of the courts?" It is not intended to alter existing law concerning admission to practice, which is now working satisfactorily.

Minnesota

The Minnesota Bar Association was represented by Mr. Howard T. Abbott, its president, who told how a bill endorsed by the association was defeated in the last legislature. Realizing that it would be hopeless to obtain the desired act, until the bar of the state had become more thoroughly integrated, a movement has been started, with the approval of the Board of Governors, to move along the lines of bar federation which have been effective in Washington. The required amendments to the constitution will be presented at the meeting this year.

Maryland

Mr. James W. Chapman told how the subject was first presented to his state association in 1920 and had simmered ever since. The introduction of a bill had been deferred until the matter is better understood and meanwhile the association is pursuing various lines of effort looking to the development of bar solidarity. The intention is to bring the subject up for action in the comparatively near future.

Michigan

In Michigan the bill introduced in legislature on behalf of the state association was too drastic, Mr. John B. Corliss reported, and at present the matter is under discussion and "we are looking to this body for instruction and enlightenment."

New York

Mr. George H. Bond, chairman of the Bar Organization committee of the New York State Association gave the history of the movement during the past four years. In the exercise of the powers conferred upon it the committee drafted an act and had it introduced on the last day of the legislative session, the purpose being to arouse interest. The subject came up at the January, 1926, meeting and it was evident that interest had been aroused.

"The matter has received consideration now in New York City and the sentiment there, at least for the present, is clearly against it." The speaker said that he did not feel certain as to sentiment up state, that special local meetings have been called and discussion is under way. "The State Bar Association has gone on record as approving the principle of bar organization. Whether or not it will approve a concise, specific bill, remains to be seen."

Ohio

Delegate George B. Harris related how the Ohio State Bar Association had discussed the proposal, created a committee, and had introduced a bill which was withdrawn as premature in the face of opposition on the part of lawyer legislators. In 1923 after considerable debate a motion to indefinitely postpone the proposition was carried in the Association by a vote of 54 to 52. At the meeting last summer the Conference of Delegates from Local Associations recommended continued effort. At the present time there appears to be militant leader-

ship but a lack of organization in the provinces to get sufficient support. "What Ohio needs, as indeed what all the states need, if this be established as a suitable objective, and I thoroughly believe it is, is to get a little of the California spirit and get behind it and put it over."

Rhode Island and Utah

For Rhode Island Mr. William Moss, and for Utah, Mr. Hollingsworth, made almost identical reports: that the matter is in committee and the present Conference meeting is counted on for information. Utah was represented also by four other members.

Virginia

Mr. Robert B. Tunstall of Virginia was able to say that he was attended by five of the members of the committee on bar organization of which he is chairman. The subject is still new in that state and the bar association is numerically weak.

Washington

For the state which has largely integrated its bar through a scheme of federating all county bars with the state association, Mr. Justice Parker, of the Supreme Court, served as delegate. He told about the State Board of Lawyers, composed of three members appointed by the Supreme Court, and acting as an arm of that court in all matters concerning admission and discipline. Any person may complain to any member of the Board concerning a lawyer and an investigation of a judicial character will be followed by a reprimand or by formal charges. In the latter case the matter is then heard fully by the Board, sitting in the home county of the respondent, and a record is made. Follows a report to the Supreme Court, which may reprimand, suspend or disbar. The strong bar organization, embracing nearly every lawyer in the state, has been influential in securing needed legislation and "I doubt not that if it be shown to the lawyers of our state and they be convinced that this new method is the best method, and the bar suggest it to the legislature, there will be no trouble whatever in having it adopted."

Tennessee

Mr. W. H. Washington: "My colleague authorizes me to state that with the prestige gained at this meeting in favor of the splendid movement, we do not think that there will be any trouble in the state of Tennessee in having the law adopted. We do not think that it will take nine years nor that it will take the painstaking propaganda indicated in the report from California."

West Virginia

Mr. James W. Vandervort reported little inclination toward bar organization in West Virginia, but told how the American Bar standard for legal education had been made effective in that state by order of the Supreme Court.

Missouri Presents Problem

Missouri presents the accustomed situation of a state in which the voluntary bar association is far more progressive than the legislature. Mr. Guy A. Thompson told how efforts had been made in two sessions to advance a bar organization bill and one also for higher admission requirements, and how both had failed. He believed that competition for legislative favor between the two measures had hurt the chances for both.

For Wisconsin Mr. R. P. Wilcox, and for Colorado Mr. George K. Thomas, reported that action on bar organization would be considered before long in their state associations.

Mr. Jessup's Proposal

Mr. Henry Wynans Jessup, on behalf of the Phi Delta Phi Club of New York City, was given leave to submit the following resolution, not for action, but as a suggestion for the Committee on Bar Organization to consider:

RESOLVED, That in statutes incorporating the bar in any state, the local bar endeavor to secure the enactment of a provision permitting the integrated bar of that state functioning within a given judicial district to nominate candidates for judicial office with the same force and effect as though such integrated bar were a political party with appropriate place upon the official ballot.

The resolution was referred by vote.

Mr. William D. Guthrie Heard

The president of the Association of the Bar of the City of New York, Mr. William D. Guthrie, was given the floor with the privilege of ignoring the six minute limit on speakers. Mr. Guthrie first stated that if it was understood that the movement for bar organization was one for each state to determine for itself his fellows of the Association of New York City were quite willing to acquiesce, and also that the Conference had no power except to recommend action and could not bind any future meeting of the Conference. Of 23,000 lawyers in New York state only 4,200 have joined the state association. Of about 17,000 lawyers in the city, 13,000 are in the First District, and a majority have not joined any bar association. Mr. Root, ten years ago, and also more recently, has referred to the influx of lawyers who had none of the traditions of the Anglo-Saxon, saying that it was a menace and a peril. He also quoted Mr. John W. Davis, who contrasted conditions in New York and Chicago with those in West Virginia, and Mr. Hughes who had spoken of the danger of admitting to the bar so many men who "have not been acquainted with the standards of Anglo-Saxon jurisprudence . . . "

Continuing, Mr. Guthrie said: "Now we in New York have reached the conclusion that it would be extremely dangerous to vest the control of the future of the bar of the state of New York, its standards of service and its ethics, in the hands of a body now wholly outside the bar associations, who have never shown the slightest interest in the profession, who have never shown the slightest desire for co-operation or any spirit of fraternity, that it would be extremely dangerous to vest in that majority the control of the bar with authority to speak for the whole. The effect would be by any such compulsory incorporation that 19,000 lawyers would be added to the present group of 4,200, and, constituted as humanity is, it would only be a short time before this majority took control. It would only be a short time before this body would make the State Bar Association and its local divisions the footballs of politics, for they would have patronage and funds to control and the power to speak authoritatively for what has heretofore been a great bar." At a recent meeting the vote stood 358 to 33 against compulsory incorporation. The Gibbs bill, around which the discussion has turned of late, does not create a self-governing bar. It does not effect the present status of admission and disbarment. Letters supporting the speaker from Mr. Milburn and Mr. Wickersham were read. Democracy does not require that in such organizations as the bar and the medical profession the fit and the unfit must be admitted without distinction and without selection.

"Annually hundreds of men are being admitted to the bar who are able to pass the examinations, against whom nothing can be found, and yet, who, we are all convinced, ought not to be entitled to practice law and ought not to be able to exercise the privileges of the profession. We have a grave danger. . . . You cannot solve that problem offhand or automatically by any form of legislation. . . .

"I therefore urge and move the adoption of the resolution, that we recognize that this is essentially a local question, having its repercussion, of course, as all local questions have, throughout the United States, but fundamentally and primarily a question to be determined by each state, and that you ought not to go any further."

Action on the motion was deferred until other local associations could be heard.

Mr. Louis Marshall

Mr. Louis Marshall, president of the New York County Lawyers Association, reported a vote of eighteen to two against bar incorporation in the board of directors. While agreeing in Mr. Guthrie's conclusions, he stated that "I do not regard the statement as entirely accurate that there is any considerable part of the bar of the state of New York or of the city of New York that is alien to the spirit, the traditions, the policies of our government, and that has not a thorough appreciation of Anglo-Saxon jurisprudence." Extended reference was made to the loyal and thorough work of the committees of the two large city associations, and especially the Committee on Amendment of the Law of the City Association of the Bar. The state association also functions in various committees. "But what is the net result of all of the activities of that association in the field of discipline or in the field of legislation? Nothing." The reason for this is that committee memberships are scattered over such a great area that effective meetings cannot be held. ". . . by the time you could get a corporal's guard together the legislature was through and the house was on fire, and you couldn't put out the fire." The speaker presumed similar fruitless efforts if the matter were in the hands of an inclusive state bar. In discipline lawyers from upstate could not intelligently deal with cases arising in the city. The matter of admissions is in the power of the Court of Appeals which has gradually raised standards. In every Appellate Division the court appoints a committee on character and fitness which committees are doing most valuable work and after admission lawyers are constantly under surveillance of the local associations. The work of the grievance committees is well organized and rendered effective by the courts. Under an official bar a law-

yer might be kicked out of the association and deprived of his livelihood. "Sometimes this might be done summarily in moments of excitement, instead of having the matter determined as it is now by the court. . . . I should rather be considered as an officer of the court than a member of a trade guild. . . . Instead of keeping up our standards of the past we are lowering our standards to the weakest link in the chain as in trade unions. . . . We are trying a useless experiment, and so far as the state of New York is concerned, we are destroying that which has been built up by voluntary effort and substituting in place of it chaos."

Mr. John D. Black reported for the Chicago Bar Association the opinion that the bar of Illinois should not be incorporated. "The bar is not a political entity and should not be made a political machine."

For the Nassau County Bar Association (New York) Mr. Ripson reported adverse sentiment and offered the hope that all local associations should increase membership by bringing in every member of respectable local character whereby we may accomplish more good in the administration of the law.

The Queens County Association of New York was represented by Mr. Golden who felt that to overturn the present disciplinary machinery would be harmful and that "it would be a matter of considerable regret to our membership if under the theory of compulsory organization we were compelled to admit into the association some of the gentlemen whom we have had occasion to discipline. . . . We say to you that we hope you will not attempt to tell the million people in our county that they cannot be governed by themselves, and that our association, which has such splendid traditions, is going to be wiped out and we be given something which cannot possibly function. . . . "

Secretary R. Allan Stephens of the Illinois State Bar said that the matter of admission had been held years ago to be exclusively within the prerogative of the Illinois Supreme Court and that recently the American Bar standards for admission had been adopted by rule, and the state association "has been trying to build up what we know now as the all-inclusive membership . . . because we are just as anxious . . . to have every member of the bar a member of the state association as any one who is anxious to secure it by statutory requirements." When lawyers are admitted it is with a public ceremony in Springfield and all are made to feel that the association wants them, and are also acquainted with the machinery for discipline. In that way the association is keeping in close touch with the Supreme Court and hopes eventually to build up, through the judicial action of the Supreme Court of Illinois, a co-operation which will make the State Bar Association all-inclusive.

With a federation plan and by co-operation with the Chicago Bar Association the bar is being integrated through an evolutionary process looking to an inclusive state bar.

Mr. Julius Henry Cohen

Mr. Cohen stated the functions of the Conference and reviewed its relation to the subject under discussion. He asserted that proponents of the inclusive statutory bar presented a philosophy. "It is this: when you and I were admitted to the bar, we took an office, not merely as officers of the court, not merely to perform jobs for clients, but we took a position which put us in relationship with every other lawyer in our state. Whatever I may say about the social qualifications of any member of the bar, or about his character, when he turns up representing a client I must receive him in my office if he has a personal communication to make to me. I must meet him in the court. . . . We have accepted the philosophy in almost every utterance that is made by every distinguished lawyer that the bar as a whole of each state has certain public duties to perform through association, and every lawyer is under obligation to aid in the performance of those duties.

"This is not creating a new status. It is accepting a status which we entered into by virtue of our admission to the bar and merely endeavoring in our crude way to create the machinery which will enable us to function. Is that philosophy accepted by the bar of the country at the present time? It is not. . . .

"If that philosophy be true it is no answer to say that it will fail of operation, because who can say that it will fail when you have taught every member of the bar that his duty is to function in collaboration with every one of his brothers as well as with the court and with clients.

"If that philosophy is unsound, we are all out of court and there is no further discussion. But the philosophy is sound and the more you men think about it, the more you read of the history of the bar, the more you will realize that the bar already exists as an inclusive organization, but has not got the machinery with which to function."

The New York County Lawyers Association was founded on the principle that any lawyer admitted to practice was acceptable for membership. That association has not gone under by reason of its broad principle of membership but has become the largest local association in the country and has elected to its presidency such men as Judge Hughes and Judge Dillon. It originated the Committee on Professional Ethics which has performed a duty benefiting the bar of the entire country. It originated the Committee on Unlawful Practice of the Law with similar results. In its present campaign for a million dollar building it has received from Mr. Cromwell a contribution of $130,000. "And what is the first instruction that we get? Get every member of the bar of New York County signed up as a member of the County Lawyers Association. The very directors who passed the resolution condemning the idea of an inclusive state bar are out urging that we get every member of the bar of the county of New York into the Association. Now if it were true that there are 10,000 lawyers in the county of New York that would destroy the work of the Grievance Committee, the Committee on Unlawful Practice and the Committee on Professional Ethics, if that fear were seriously entertained, would we do anything of the sort?"

Replying to the charge that non-membership in an association means indifference to moral standards, Mr. Cohen presented the results of an analysis showing that young lawyers are slow in joining any association, only one out of 91 admitted in 1925 having joined the state association. Analysis of the membership of two of the leading firms in the city showed that a minority of the partners had joined the state association, and an equal number belonged to no association at all. "Don't you see the point? These men have failed to join bar associations not because they are of low moral character. It is because they entertain the philosophy so eloquently put forward here, namely, that we are all independent; we have no duty to belong to an association. But can we say that those members of leading law firms who have never manifested a desire to join a bar association are entitled to accept the philosophy of the selective bar association and at the same time be charged with being a menace to the bar if they don't join an association?

"Until we have convinced the younger men of the philosophy that from the day a man is admitted to the bar he ought to be a member of its association you will have this same situation which I have just related. That is where the large majority is, not in these aliens that my friend from New York is so much afraid of. There is no danger from these aliens. Don't any of you men go back to the West or the South with any fear that these young men who work during the day and study at night are going to overthrow standards. That fear exists in the minds of a number of men in New York whom we respect. But it is not justified by the facts."

In the bar associations the members follow leadership and when men like Mr. Guthrie and Mr. Marshall tell us their deliberate convictions they swing the vote. "The bar will always be swung by leadership, and leadership of the same high intellect and the same high virture. But this is true—all the leadership in the world, all the sound convictions with respect to legal education, with respect to all these matters that we solemnly resolve about at these annual meetings of the American Bar Association and this Conference will never become effective through the votes of the minority of the bar.

"You have heard recital after recital of how, after a bar association has adopted something, the legislature disapproves, though embracing many lawyers. Why? Because of the very fact that the associations today are made up on the selective basis, the voluntary basis, and that leaves those on the outside with the feeling that they are not a part of it, and they are hostile at the very beginning. . . . We may be wrong about it, but our feeling is that instead of shutting the doors on those now on the outside, if we open the door and say 'You are welcome, come in, mix with us,' that then we may have the power to help them. That can't be done tomorrow nor the next day, but in time to come. If we can formulate some kind of machinery that will enable the bar as a whole to perform its duty, not merely to client, not merely to court, but the lawyer to the lawyer and the lawyers as a group to the state and to the nation, we can by this process of fraternity do away with at least some of the evils we deplore."

Judge Clarence N. Goodwin

After referring pointedly to conditions in the bar in Chicago which justify the statement that there has been a breakdown in the administration of criminal justice, Judge Goodwin said: "A number of you have been saying, 'We do not want these men brought into association with us.' Well, they are in association with you, they are members of your profession. It isn't a matter of guild. It isn't a matter of trade union. If there is anything partaking of a guild or trade union it is the voluntary bar and not the officially organized

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SOME PHASES OF THE DEVELOPMENT OF INTERNATIONAL LAW

Plans for the Termination of Disputes Between Nations—Historical Examples of Operation of These Methods—Events Leading Up to Creation of Permanent Court of International Justice—Activities of American Lawyers in International Field*

By Hon. R. E. L. Saner
President American Branch International Law Association, 1925

RIGHT is always the same—yesterday, today, forever. Right never changes. The intervention of the human will and the proneness of human beings to err sometimes make it impossible for us clearly to distinguish between the shades of right and wrong. Changing conditions and circumstances sometimes necessitate the application of varying principles toward the establishment of right and the destruction of wrong. Principles of right are the same in isolated and individual cases, and in the control and regulation of groups and masses, and the object of law is to establish that which is right and to prevent that which is wrong. An analysis of law in all of its branches, international, public and private, reveals that its prime and only purpose is to circumscribe and preserve the rights of nations, municipalities and individuals, and to define their obligations.

Vattel defines a Nation or a State as "A Society of men united together for the purpose of promoting their mutual safety and advantages by the joint efforts of their combined strength" and defines the design of his work to be "To establish on a solid foundation the obligations and rights of nations."

The "Law of Nations," he says, "is the science which teaches the rights subsisting between Nations or States, and the obligations correspondent to those rights." And that, "The disputes that arise between Nations or their Rulers originate either from contested rights or from injuries received. A Nation ought to preserve the rights which belong to her, and the care of her own safety and glory forbids her to submit to injuries, but in fulfilling the duty which she owes to herself, she must not forget her duties to others. These two views combined together will furnish the maxims of the Law of Nations respecting the mode of terminating disputes between different States." He concludes: "That a Nation ought to do justice to all others with respect to their pretensions and to remove all their just subjects of complaint. She is therefore bound to render to each Nation what is her due—to leave her in the peaceable enjoyment of her rights—to repair any damage that she herself may have caused, or any injury she may have done—to give adequate satisfaction for such injuries as cannot be repaired and reasonable security against any injury which she has given cause to apprehend. These are so many maxims evidently dictated by that justice which Nations, as well as Individuals are, by the law of nature, bound to observe."

In these few words, that great authority has laid down the principle of right conduct between Nations, and the desire of all broad minded and far-seeing statesmen should be intelligently to consider, first, the welfare of all Nations and all Peoples. Their supreme duty should be to see that these relative rights and duties are strictly and conscientiously protected, earnestly preserved and honestly secured.

"The end of civil society," he says: "Is to procure for the citizens whatever they stand most in need of, for the necessities, the conveniences, the accommodations of life, and in general, whatever constitutes happiness—with the peaceful possession of property, and method of obtaining justice with security, and finally a mutual defense against all external violence."

It is apparent, therefore, that no State or Nation can fulfill its own destiny and attain its own ends except it be in a state of peace. Peace elevates human character; peace generates human ambition; peace assures human happiness. War has ever been the black scourge of the Ages; it destroys lives; it dismembers families; it arrests development; its ruthless practices puts an end to human happiness and leaves a suffering world sitting in sack-cloth and in ashes.

The only ideal status, therefore, of Individuals and of Nations, is the status of peace. Nations, as well as Individuals, should seek in every way to arrive at just methods, and to establish sincere sanctions that will assure the status of peace.

The best thought of authorities upon international law from Grotius, and before, to the present time, has been toward the devising of ways and means to this end. In the best light that lay before them, all authorities have outlined similar suggestions for the termination of disputes between Nations.

The first of these means was amicable Accommodations, under which each party coolly and candidly examined the subject of dispute in an effort to do justice to the other, each insisting upon its certain rights and voluntarily renouncing its doubtful claims.

The second of these means was that of Compromise, in which the parties, without precisely deciding upon the justice of their jarring pretensions, receded on both sides, realizing that it would be to the best interests of their respective people to give a little, rather, than to insist upon all, and finally be compelled to enforce their claims at the point of the sword.

The third of these means was Mediation, in which an impartial Common Friend interposed his

*Presidential address delivered at annual meeting of the American Branch of the International Law Association, held in New York City on February 22, 1926.

good offices as a Conciliator, and not as a Judge, in an effort to prepare peace between the disputants.

The fourth of these means was Arbitration, in which the contending parties entered into agreements outlining the nature of the dispute; the character of the problems to be solved; and an engagement upon the part of both to abide by the judgment of the Arbitrators. Then the light failed. No other suggestions offered themselves, and when these methods did not produce satisfaction, Coercion, Severance of relations, Reprisal, Blockade, Bombardment and War must necessarily follow in their natural sequence.

Vattel, however, lays down this principle of Right, which cannot be disputed: "Nature gives us no right to have recourse to forcible means, except where gentle and pacific methods prove ineffectual."

Under these primitive methods war has been frequently prevented. The recitation of instances of amicable Accommodation and Compromise would be tiresome to relate. A comparatively recent example of the settlement of the international difficulties by Mediation was evidenced at the friendly offer of the United States under President Roosevelt, in 1905, when peace was concluded between Russia and Japan at Portsmouth, New Hampshire.

One of the most important and interesting examples of arbitration was that which arose out of the "Alabama Claims." During the War between the States, the British Government issued a proclamation of neutrality by which the Confederates were recognized as belligerents and its example was followed shortly afterwards by France and other nations. The United States attempted to blockade the southern ports. This effort was not at first effective and blockade running became an active industry. The Confederate States established agencies in England which purchased arms and munitions of war and shipped them in ordinary merchant vessels to the Bahamas, where they were transshipped in fast steamers especially constructed for that purpose. In 1862 the "Alabama" was nearly completed by shipbuilders at Birkenhead and was obviously intended as a man-of-war. The United States Consulate at Liverpool, gave notice to the English law officers and subsequently furnished sworn evidence of the fact that the "Alabama" was probably intended as a blockade runner for the Confederate States, but the Government declined to move. A few days later instructions were given to seize the vessel, but she had sailed the night before and there was no serious attempt to restrain her or to effect her capture, although she remained two days off the coast of England. Under the command of Capt. Semmes, she pursued a most destructive career.

Upon the termination of the war, the United States submitted to Great Britain grievances arising out of the case of the "Alabama" and other vessels. At length the two Governments agreed to arbitrate upon fixed principles. These principles were that a neutral Government is bound:

First, to use due diligence to prevent the fitting out, arming or equipping within its jurisdiction of any vessel which it has reasonable ground to believe is intended to carry on war against a power with which it is at peace;

Second, not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other; and

Third, to exercise due diligence in its own ports and waters to prevent any violation of the foregoing obligations and duties. The convention further provided that the dispute should be referred to a Tribunal composed of five arbitrators, one to be named by each of the contracting parties, one by the King of Italy, one by the President of the Swiss Confederation, and one by the Emperor of Brazil. All questions were to be decided by a majority vote and each of the contracting parties was to name one person to attend as agent. The convention further provided that the arbitrators should be governed by the three rules above enumerated and by other principles of international law not inconsistent therewith as might be determined to be applicable by the arbitrators. The convention further provided that the parties agreed to observe these rules as between themselves in future and to bring them to the knowledge of other maritime powers.

After the Arbitrators had entered upon their duties, the United States asserted claims not only for the property destroyed by the Confederate vessels, but for certain indirect losses arising out of the enhanced payments of insurance, the expenses of pursuit and the prolongation of the war. The United States went even further than this and preferred charges of insincere neutrality, veiled hostility, premature recognition of belligerency, and unfriendly utterance of British politicians. The British Government refused to continue the arbitration if it was to consider these additional charges. Count Sclopis of Italy, one of the arbitrators, thereupon announced that the Commission had arrived at the conclusion that the indirect claims did not, under the principles of International Law, constitute a good foundation for an award or computation of damages between Nations. The United States thereupon withdrew these claims.

The Commission thereafter found that the British Government was responsible for the depredations of the "Alabama" and assessed the damages at Fifteen Million Five Hundred Thousand ($15,500,000) Dollars, and these damages were subsequently paid.

Nations have frequently since that time resorted to arbitration under similar terms and conditions and armed disputes between nations have been thus greatly minimized.

Most students of and thinkers upon International Law have for many years, however, groped in the dark for some other means, in addition to those heretofore suggested, more efficaciously to prevent war.

Joseph Chitty of England in 1833, regretted that there was no general Code of International Law; and that none has been produced is the regret and shame of our boasted civilization, and to this can also be added the extreme necessity of an International Court or Tribunal to decide upon and enforce the Law of Nations when disputed. Prior to this expression, and since, many writers have advocated the creation of a permanent Court of International Justice. It is a source of great gratification that America took the initiative in the proposal, but was slow indeed to follow up the suggestion.

In 1899 the first Hague Conference was held. The Conference organized itself into three commit-

tees; One to study disarmament, One to consider the laws and customs of naval warfare, and One to study the peaceful methods of adjusting international disputes, through the offer of Good Offices, Mediation and Arbitration. Most Nations seemed to be in accord upon the necessity of creating a Court and the United States delegation proposed a court composed of persons of great authority and high moral qualifications to consist of judges chosen by a majority vote of the judges of the Highest court in each country, but the plan faltered and did not finally develop. The second Hague Conference met in 1907 upon the initiative of the United States and Russia, and at this Conference practically all of the Nations of the world were represented. Mr. Elihu Root was at that time Secretary of State of the United States and the delegates to the conference were instructed by him to contend for Obligatory Arbitration and for the development of a permanent Court to be composed of Judicial Officers without other occupation, who were to be paid adequate salaries and who would agree to devote their entire time to the trial and decision of international causes. He designed the Court to be composed of the best and ablest jurists and to merit the absolute confidence of the world in its actions. The ideas and ideals of Mr. Root were ably seconded and advanced by Mr. James Brown Scott, one of the experts upon the American Commission, and a leading world authority upon International Law, and it is probable that the present flattering prospect for a World Court, that will satisfactorily solve world problems, is attributable in a large measure to the activities of these two great Americans.

Nor should we forget, in considering the contributions of America toward international peace and to the development of International Law those patient pioneers, brilliant publicists, trained writers and able jurists, Wheaton and Kent and Story and Woolsey and Taylor.

We should gratefully remember that this association was conceived in the fertile brain of an American, Elihu Burritt. Its first meeting was in Brussels, October 10-13, 1873, under the guidance of another great American lawyer, David Dudley Field, and christened "The Association for the Reform and Codification of the Law of Nations," and Mr. Field was made its President at this meeting. We should gratefully remember that throughout a long and active life, his utmost energies were gratuitiously expended in the cause of International Peace.

Nor should we forget the importance of the labors of that distinguished lawyer, John Basset Moore, now a judge of the Permanent Court of International Justice. Perhaps his Digest of International Law is the most accurate and important treatise of its character, written in modern times.

The efficiency of the Court of Arbitration as created at the Hague Conference in 1907 was not sufficient to meet the test of the world war. After the treaties of peace between the warring nations had been signed, and after the League of Nations had been set up, it became more and more apparent that a permanent Court of International Justice was essential to the settlement of international disputes and to secure permanent peace between the nations of the world. Ten representative Jurists, therefore, from the principal nations, met at the Hague in the Summer of 1920 and drafted a plan for a permanent Court of International Justice, and this plan was subsequently adopted by International Convention, independent of the League of Nations. The difficulties incident to the creation of this tribunal were almost insurmountable, and perhaps the greatest of these difficulties was that involved in the method of the selection of judges. In the case of nations, as of individuals, it is true that arbitration will not be resorted to unless the contestants have faith in the integrity of the arbitrators, and it was immediately conceded that the Court, in order to merit the faith and confidence of all the nations, must be itself independent of any nation or group of nations, and must be composed of judges qualified by intellect, ability, experience and integrity, so that litigating States might clearly know that the extent of their rights and obligations would be fairly and accurately considered and justly determined.

When it seemed almost impossible to agree upon a method of selecting Judges that would be fair to all nations, large and small, powerful and weak, and thus acceptable to all, the genius of American institutions again bore fruit, and as Judge Bustamente, an honored member of the World Court justly says: "The skill and talent of Elihu Root and James Brown Scott, to which attention has already been called, brought harmony into a situation that had begun to seem irreconcilable. They proved their skill by not launching their plan until other proposals had been rejected . . . . and when once their plan is explained and understood, the genius of these two men needs no further proof. The plan consists of submitting the list of candidates prepared from the nominations of the national groups on the Court of Arbitration to a double, but separate vote in the Council, where the great Powers are permanently represented, as well as small ones, and in the Assembly, where all the members are represented with absolutely equal votes, and in not considering any candidate elected who does not obtain a majority of the votes in each of these two bodies. Under this plan the great powers who dominate the Council morally, and who then dominated it materially as well, cannot impose their will upon the majority of the small nations which compose the Assembly, and the majority of the small nations controlling the Assembly cannot overcome the will of the great powers controlling the Council. This gave a balance of power like that which rules public affairs for the general good in almost all real Democratic Nations."

Under the statute creating the Court, the rules of International Law to be applied are defined as follows:

"First, International conventions, whether general or particular, establishing rules expressly recognized by the contesting states;

"Second, International custom, as evidence of a general practice, accepted as law;

"Third, The general principles of law recognized by civilized nations;

"Fourth, Judicial decisions and the teachings of the most highly qualified publicists of the various Nations as subsidiary means for the determination of rules of law."

These four bases have been recognized by writers upon International Law as the sources of information upon what is the positive law of na-

tions. While it is contended by some that a Code of International Law should precede the erection of a court to apply International Law and while there is a necessity for the adoption of such a Code by convention of the nations, yet it is submitted that the status of International Law is as definite, if not more so, than it has ever been in the history of the world, and that it can be more easily applied by a permanent Court of International Justice than by temporary Courts of Arbitration.

Notwithstanding the fact that American publicists and authorities upon International Law have uniformly been in the forefront of all movements looking to the creation of a permanent court, and notwithstanding that it has been the policy of the American Government, continuously from the presidency of Grover Cleveland, to advocate the erection of such a court, there has been much discussion on the part of Congress and of the people at large as to whether or not the people of the United States should become a party to the convention creating the Court, and if so, under what terms and conditions. Mr. Charles Evans Hughes, Secretary of State, under President Harding, strongly advocated our entrance into the World Court, upon four reservations:

First, That adhesion to the Court shall not involve any legal relation on the part of the United States to the League of Nations, or the assumption of any obligations by the United States under the covenant of the League;

Second, That the United States shall be permitted to participate upon an equality with the other States, respectively, of the Council and assembly of the League of Nations, in any and all proceedings of either the Council or the Assembly for the election of judges or deputy judges of the Court, or for the filling of vacancies;

Third, That the United States will pay a fair share of the expenses of the Court, to be determined and appropriated from time to time by the Congress of the United States;

Fourth, That the statute for the permanent Court of International Justice shall not be amended without the consent of the United States.

It was proposed by Mr. Hughes that upon these reservations, not necessarily to be acted upon by any other nation, a party to the convention creating the court, we should adhere to that tribunal.

Under the guidance of President Coolidge and Mr. Frank G. Kellogg, Secretary of State, the United States Senate has just agreed to participate in the functioning of that Body, but upon certain reservations and declarations.

The first reservation is the same as that of Mr. Hughes to the effect that adhesion to the court shall not involve any legal relation on the part of this nation to the League of Nations, or the assumption of any obligations under the Treaty of Versailles.

The second reservation assures to the United States participation in the election of Judges upon an equality with other States, members of the Assembly and Council. This is practically the same as the second reservation suggested by Mr. Hughes.

The third reservation commits the United States to the payment of a fair share of the Court's expenses, leaving to the Congress of the United States the determination of what that fair share shall be. This likewise is practically the same as the third reservation suggested by Mr. Hughes.

The fourth reservation provides that the statute of the Court cannot be changed without the consent of the United States, as suggested by Mr. Hughes, but further provides that the United States may at any time withdraw from the support of the Court.

The fifth reservation provides that the Court may not entertain any request for any advisory opinion affecting any dispute or question in which the United States has, or claims an interest, except, upon the consent of the United States.

Under the reservations, as adopted by the Senate, it now becomes necessary for the Nations composing the Court to agree to said reservations by a particular convention, and Mr. Kellogg, as Secretary of State, is now in process of arranging those conventions. In addition to the reservations above mentioned, however, the Senate has added two supplemental declarations of American policy which other states will not be asked to accept, but which will nevertheless be binding declarations of the policy of this nation.

The first declaration requires that before the United States may resort to the Court, it must as a condition precedent secure the consent and advice of the Senate through its favorable action upon general or special treaties concluded between the parties. Mr. Manley O. Hudson contends that this declaration has only a Constitutional purpose so far as this Nation is concerned, in that it makes it impossible for the President to involve this Nation in a litigation before that Court without the consent of the United States Senate.

The second declaration made by the Senate declares that this nation shall not interfere with the internal affairs of any other nation and shall not relinquish our authority upon purely American questions.

It is to be sincerely hoped that only a short time shall intervene before the nations supporting the Court may accept the adhesion of the United States to the permanent Court of International Justice upon the reservations adopted by the Senate. Then America shall take its rightful place among those great nations of the earth who concede that peace is essential to the happiness of the peoples of the earth, and that peace can be most firmly assured, when guaranteed by a tribunal that seeks to apply settled principles of law to the differences and disputes of nations, relying upon the good judgment and good faith of all nations for the enforcement of its decrees. . . .

The functioning of the permanent Court of International Justice, upon the broad plan of its creation, and through the brilliant intellects and honest hearts of those great Jurists, in whose hands its destiny rests, but constitutes another forward step toward the prevention of war, and the preservation of peace, and then as Lord Alfred Tennyson has so beautifully said:

> "Shall all mens good
> Be each mans rule, and universal peace
> Lie like a shaft of light across the land,
> And like a lane of beams athwart the sea."

Lucien Hugh Alexander

TO THE EDITOR:

Lucien Hugh Alexander, of Philadelphia, a member of the American Bar Association since 1902, died on April 6th after a short illness. The sorrowful news of his passing will come as a great shock to his many friends in the Association, while those who, during the last two decades, have taken an active part with him in the upbuilding of our Association, will realize keenly that we have suffered the loss of one whose membership was of the greatest value and importance.

Mr. Alexander was notable among those who have worked, year after year, for the advancement of our national organization. To his vision, initiative, and courage, the Association is, to a very large extent, indebted for some of its best achievements. In his sympathetic study of the needs of our confraternity, controlled always by a fine appreciation of the ideals which should distinguish it, he found the things that were necessary to be done that the Association might progress in fulfilling its destiny.

In the accomplishment of the work at various times assigned to him, he was indeed a dynamic force. He labored with an energy that was amazing and an intense application that knew no sparing of self nor the counting of the cost of infinite painstaking. The duties that were committed to his hands he considered as an obligation to be discharged, not only without compensation, but without reimbursement for certain expenses. Governed by this extreme view of the obligations imposed upon him by his membership in the national body of his profession, he refused to be reimbursed for traveling expenses and hotel bills incurred by him in his work, for instance, for the Membership Committee, of which he was Chairman for ten years. While he thus, perhaps, took an indefensible position, his attitude in this particular may serve as a good example of the profound sense of his duty to our great confraternity. Of him it may well be said that his was the royal motto "Ich Dien"—and his idea of service was indeed exacting.

The history of his labors and achievements for our Association, for the most part, can readily be found in our annual reports. There are, in part, at least, the records of his work in the field of legal education and admission to the Bar, and standard rules; of his enormous labors in the creation of our present canons of ethics; of his ten years of tireless service as Chairman of the Membership Committee. But many of his important services to the Association are not to be found in the printed record. They are of the traditions of the counsel room. His foresight and wise counsel in the consideration of plans and the solution of problems were as important in results as his actual work on committees.

The possibilities of such a publication as the "American Bar Association Journal" were first urged by him, and it was he who suggested its creation. He submitted a plan for a journal of this kind which provided an excellent opportunity to appraise the man's purity of ideals and the nobility of his conception of the standards which the legal profession must maintain.

The writer will not presume here to attempt a commentary on the work for the American Bar Association of Mr. Alexander—that is a labor that should be reserved for a far abler pen. The writer must content himself merely with expressing his great appreciation and admiration of the splendid man and unselfish and devoted worker for our Association who is no more, and testifying to a keen sense of the privilege of having been, for nearly a quarter of a century, a co-worker with Lucien Hugh Alexander.

FREDERICK E. WADHAMS.

STATEMENT OF THE OWNERSHIP, MANAGEMENT, CIRCULATION, ETC., REQUIRED BY THE ACT OF CONGRESS OF AUGUST 24, 1912

Of American Bar Association Journal, published monthly at Chicago, Illinois, for April, 1926.

State of Illinois } ss.
County of Cook }

Before me, a Notary Public in and for the State and county aforesaid, personally appeared Joseph R. Taylor, who, having been duly sworn according to law, deposes and says that he is the Business Manager of the American Bar Association Journal and that the following is, to the best of his knowledge and belief, a true statement of the ownership, management, etc., of the aforesaid publication for the date shown in the above caption, required by the Act of August 24, 1912 embodied in section 411, Postal Laws and Regulations printed on the reverse of this form, to wit:

1. That the names and addresses of the publisher, editor, managing editor, and business managers are:

Publisher, American Bar Association, W. P. MacCracken, Jr., Sec., Chicago, Ill.

Editor in Chief, Edgar B. Tolman, 30 N. La Salle St. Chicago, Ill.

Managing Editor, Joseph R. Taylor, 38 S. Dearborn St., Chicago, Ill.

Business Manager, Joseph R. Taylor, 38 S. Dearborn St., Chicago, Ill.

2. That the owner is: (If the publication is owned by an individual his name and address, or if owned by more than one individual the name and address of each, should be given below; if the publication is owned by a corporation the name of the corporation and the names and addresses of the stockholders owning or holding one per cent or more of the total amount of stock should be given.)

American Bar Association, Chester I. Long, President, Wichita, Kans.; W. P. MacCracken, Jr., Secretary, 209 S. La Salle St., Chicago, Ill.; Frederick E. Wadhams, Treasurer, 78 Chapel St., Albany, N. Y.

3. That the known bondholders, mortgagees, and other security holders owning or holding 1 per cent or more of total amount of bonds, mortgages, or other securities are:

There are none.

4. That the two paragraphs next above, giving the names of the owners, stockholders, and security holders, if any, contain not only the list of stockholders and security holders as they appear upon the books of the company but also, in cases where the stockholder or security holders appears upon the books of the company as trustee or in any other fiduciary relation, the name of the person or corporation for whom such trustee is acting, is given; also that the said two paragraphs contain statements embracing affiant's full knowledge and belief as to the circumstances and conditions under which stockholders and security holders who do not appear upon the books of the company as trustees, hold stock and securities in a capacity other than that of a bona fide owner; and this affiant has no reason to believe that any other person, association, or corporation has any interest direct or indirect in the said stock, bonds, or other securities than as so stated by him.

JOSEPH R. TAYLOR,
Business Manager.

Sworn to and subscribed before me this, the 14th day of April, 1926.

(Seal.) Mary A. King.

(My commission expires Jan. 5, 1927.)

THE PASSING OF THE OLD SCHOOL LAWYER

By Cornelius Comegys
President of Lackawanna Bar Association, Scranton, Pa.

IT is only a memory—perhaps now but an old man's dream—after long years, following a vision of youth. The time is 1880, the place, if place it can properly be called, an ancient building, then standing on "The Green" of an old town, Dover, Delaware, and modestly fronting an all-too-heedless world, out of shadows made by modern, and, to the eye, far more pretentious buildings, imposing neighbors, a capitol, in which laws were periodically made, and a Court House, a temple of justice, in which they were administered, and, sometimes, also made.

At that time, the then moss-covered roof of this antiquated building gave shelter to the professional lives of two men of distinction, both lawyers of unusual ability. One of them, Nathaniel B. Smithers, had been admitted, in 1840, during the classical period of American law; the other, George V. Massey, once a student of the older man, in 1865, shortly after the Civil War.

Then, in 1880, only sixty-two years of age, Mr. Smithers was already, to the mind of the youngster, an old man. He seemingly played his part well; he had the fixed habits of age. Every morning, fair or foul, precisely at the same hour, he might be seen, with his slouch hat, his long frock coat, and his gold-headed walking stick, wending his way, leisurely and with some show of dignity, along the street towards his office in this more than century-old building. A great reader, and always a student, there he was happy in the possession of many books—books that he had gathered from everywhere. Some of them, comparatively a few, were new editions, perhaps just from the press; others there were, and many of them, that were old, time-worn and of "forgotten lore." Among them might be found such titles, for instance, as "Bracton," "Britton," "Doctor and Student," "Littleton," "Coke," and those famous "Year Books" in black letter. All these books he not only had, but he habitually read them, and he read them with apparently delightful appreciation. From force of habit, perhaps, he was only doing as he had always done: continually stuffing his mind with booklearning that he might be always prepared, when the time came, with an answer for any problem. The result was a peculiarly sensitive and discriminating legal organism—a mind thoroughly saturated with law, yet untrammeled, and not at all a slave to the doctrine of *stare decisis*. When a legal question of difficulty arose, it was not the first thought of such a mind to search diligently for some precedent in relief of the situation. His was the master-mind.

He had had his day in court, and even then was apparently satisfied with what he had accomplished there—the honors he had gathered. Only matters of large moment were of interest to him now. He no longer had pleasure in the mere commonplaces of professional life, and his days were passed quietly in study and meditation—a wonderful, awe-inspiring life to the law students of the town, some few of whom afterwards achieved no little distinction in professional life—a distinction to which he may have contributed not a little. It was his delight, rather, a pleasant recreation for him, to talk with these students, to quiz them, to ask them questions, to find out what they knew, or didn't know, about uses and trusts, contingent remainders, estates tail, executory devises, the Rule in Shelley's Case, pleading, evidence, practice, and all sorts of things. Though always aparently with something on his mind, he was never too much engaged to devote some of his precious time to service of this kind, helping the young fellow, who could not afford the advantages of a law school, to make something worth while out of his future; but willing and gracious as he was, he always compelled, by his manner, a show of respect, or a sort of admiration for himself. Though only sixty-two, he was quite evidently already possessed by the pardonable vanity of successful age, and was now, in this way, unconsciously seeking to secure some of its compensations.

Only in what may be called comfortable circumstances, he died January 16, 1896, having lived out his more than three score years and ten.

The other man, George V. Massey, was of a different type—far different. Then only thirty-nine years of age, without the benefit of college training—as Dr. Holdsworth, the Vinerian Professor of Law at Oxford, with a significant shake of his head, might say, "he knew no Latin"—but for that reason alone he was not to be dismissed with a wave of the hand. He was a worker, a tireless, persistent worker; vacations for change and recreation were not for him, nor the "long frock coat," nor the "gold-headed cane"; the weather permitting, he wore no coat at all.

When business came his way, he literally "got after it," and, if it required some knowledge out of the common and not to be found in his limited law library, the Delaware Statutes, it was said that he either interviewed his old preceptor, Mr. Smithers, or searched for a case in the reports, contained in the nearby State Library, that might help him out of his difficulty. With an extraordinary power of mental concentration upon any subject of investigation, while vigorous and active, he was patient, painstaking and thorough, so that he had even then become, by the constant exercise of these qualities, a recognized leader among his fellows in this country town. Later on, and for many years, no longer in a country town, but in Philadelphia, he was to be the general counsel, the confidential legal adviser, of the great Pennsylvania railroad system; and yet, as Dr. Holdsworth would say, "he knew no Latin." Prosperous and highly regarded, nevertheless, until the end, he died in 1924.

There is no question but that the Civil War touched and seriously affected every phase of American life. The entire social structure, as if by some sort of moral earthquake, was roughly shaken, and in the confusion incident to the convulsion, and following it, great changes took place and many re-

adjustments became necessary. Like everybody else, the lawyer too, was necessarily involved in this cataclysm. For a time, and quite a time, it is now evident, he failed absolutely to realize that the world had changed about him, and in his conservatism, he still clung to the habits of "befo' de War." A little later, possibly beginning unconsciously to sense the drift of things, he groped along with only the faintest glimmering consciousness of a pending revolution. The great majority, like this old man, Nathaniel B. Smithers, dwelling in a dreamland hallowed by traditions, had come to the Bar in the classic period of American jurisprudence, the era of the immortals, Marshall, Story, Taney, Kent, Greenleaf, Washburn and Parsons; quite naturally the ways of Providence had not given unto them to see and realize that changing social, economic and political conditions were tolling the death knell of the old order of professional life.

Not so with the younger man. To him, probably just out of the War, himself, with his own way to make in this new strange world, as was actually the case with George V. Massey, the great tradition of the past was not the all and all of his professional life. Necessity compelled him to take things as he found them, and, perhaps, unconsciously, in some mysterious way, here and there, in one place and another, throughout the country, he sensed the situation, and in his course, faced it successfully, because without fear. As it was in Dover in 1880, so it must have been in many other communities, some of the younger men appeared to be forgetting the dignity of the Profession, but nevertheless winning their way.

It is not altogether improbable that one Christopher Columbus Langdell, with his ear to the ground, sometime prior to 1870, had already discovered, perhaps also unconsciously, what was going on, and thereupon realized the need of a change in the methods of legal instruction, perhaps revolutionary in character; the old methods of "befo' de War," no longer adequate, were breaking down. The age was now a practical one; the training of every student of law, according to Langdell's idea, should be directed, first, to ascertain from given facts the legal question involved, and then to find the law applicable to the situation. The result was his famous "Case System" of instruction—a system first introduced by him at the Harvard Law School, in 1870, and which is now the method more or less followed by the law schools of higher standing in the various parts of the country. "Befo' de War," the vast majority of students were of the office kind; now, with the exception of some sections of the South, there are but few young men who get their professional preparation in that way. By efficient teaching, the law school has gradually won a monopoly of the business, so that today there are approximately 30,000 students in these institutions, all taught by capable men how to learn and how to apply the laws of a complex social and business world.

It is evident that the great changes in the social structure of the country following the Civil War, and this probably resulting revolution in the character of legal education are largely, if not entirely responsible for a type of lawyer who "lives not as his fathers lived"—a man whose mental attitude towards professional life is no longer that of the "old school" lawyer. Whither this attitude will

finally lead him, into what strange countries, God only knows. It is for the present generation to realize, however, that the "old school" lawyer, with his long frock coat and all that, has passed on: "The King is dead; long live the King."

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the principal ground for appellees' suits was the invalidity of the whole proceeding and not merely inequality in apportionment of benefits, and as the effect of the proposed equalization would have been to bring the lands of appellees into the newly established drainage district and subject them to future assessments for construction costs and for maintenance, the threatened injury was imminent and the suits were not premature. The assessment, if made, would have established a lien on the appellees' property which would be a cloud on title—to say nothing of the fact that the effect of the pending proceeding would have been to subject their property to future assessments; hence the case was one for equitable relief unless there was a plain and adequate remedy at law. (Citing cases.) The remedy by appeal to the state court under Section 8469 does not appear to be co-extensive with the relief which equity may give. In any event, it is not one which may be availed of at law in the federal courts, and the test of equity jurisdiction in a federal court is the inadequacy of the remedy on the law side of that court and not the inadequacy of the remedies afforded by the state courts. (Citing cases.)

It does not appear that the state law affords a remedy by payment of the assessment and suit to recover it back, which, if it exists, can be availed of in the federal courts (citing case), or that such remedy, if available, would not entail a multiplicity of suits.

Argued by Messrs. Benj. I. Salinger, N. B. Bartlett and E. O. Jones for appellants and by Mr. Edward S. Stringer for appellee; also by Messrs. E. L. Grantham, C. O. Bailey, R. M. Campbell and Harold E. Judge for various appellees in cases submitted and decided at same time.

(*Continued from page 331*)

bar. Without the voluntary bar associations we would be in a far worse condition than we are today, but the voluntary bar associations have not solved the question. . . . I believe that as discussion goes on we will find some way, even in New York, to recognize our duty of fraternity to all those who are in the profession and who are our brothers. . . . You will never solve this problem until you recognize the fact that the man admitted to the bar becomes your professional brother and that there is thus a relation officially established."

Judge Goodwin moved as a substitute for Mr. Guthrie's motion that the latter be referred to the Committee on State Bar Organizations with instructions to report it out at the next meeting of the Conference in July, and that consideration of the resolution be made at that time a special order.

The substitute motion was lost on a vote of 47 to 34 and Mr. Guthrie's motion, as it appears above, prevailed.

EUROPEAN LITERATURE AND LEGISLATION

(Contributions of Bureau of Comparative Law—Continued)

Spain

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BUEN LOZANO (D. DE.) *Las normas juridicas y la función judicial.* Of the numerous collections of rules of judicial procedure, as well as for the conduct of magistrates in their official capacity, promulgated in all countries having a highly organized system of jurisprudence, Spain certainly has her share. The extreme solicitude for the impartial administration of justice, as shown by the character of the penalties incurred because of dereliction in judicial duty, and especially where a judge was guilty of corruption, dates back to the earliest times. The Visigothic, and the ancient Castilian Codes, where a palpably unjust decision was rendered, prescribed punishments of marked severity. The Penal Code of Spain punishes bribery of a member of the magistracy with a fine of triple of the property involved and imprisonment.

The work in question lays down rules for the conduct of the Bench in both civil and criminal procedure, which have been sanctioned by custom, approved by experience, and endorsed by the legal profession; but it has not been considered necessary to prescribe moral precepts to magistrates, who, as a body, rank as high as the Spanish judiciary. (Editorial Reus, Cañizares 3, dupdo. Madrid, Price 2 pesetas.)

LAZARO JUNQUERA (L.) *Derecho penal de los menores.* The propriety of establishing special courts for the trial of juvenile offenders against the law is being generally recognized by legislators in European countries, but nowhere has this system been developed to the extent that it has in the United States. While generally commendable, as conducive to the separation of youth from classification with hardened criminals, it becomes questionable whether, by its means, undeserving leniency where, "the offender's scourge is weighed but never the offence," is not too often exercised to the general detriment of society. While, of course, it is sometimes best to err on the side of mercy, there is entirely too much sentimentality displayed in this country in the administration of criminal justice; and this applies quite as often to young, as to experienced lawbreakers. The daily newspaper accounts of the most daring and atrocious crimes, murder, burglary, arson, highway robbery, committed by mere children, among whom girls in their "teens" are conspicuous as participants, often as leaders, are a frightful and suggestive commentary on the precocity of the modern malefactor. Ten years ago such things would have been deemed impossible, now they are so common that they scarcely attract attention. Notorious impunity, the coddling of inmates of penal institutions, and the enactment of statutes which, abrogating the right of personal liberty, arouse the indigation and provoke the defiance of reputable persons whose most cherished privileges—privileges long considered inalienable—have been swept away by the spurious zeal of that pest of modern society, the professional "uplifter," have produced a social demoralization and an utter disregard for law in general, which is growing by leaps and bounds. The remedy for this is not to deprive the peaceful industrious citizen of the means of defence, by prohibiting the sale of fire-arms (the criminal cares nothing for such restrictions; indeed, he is in favor of them, just as the bootlegger is an ardent advocate of prohibition), nor to attempt to reform enemies of society by making pleasure resorts of prisons, and their inmates objects of hero-worship to the youth of the country, but to *punish crime.* It should hardly be necessary to say that if anyone breaks a law he ought to pay the penalty, and not be rewarded by entertainment with moving picture shows, radios, base-ball, and similar recreations, granted the convict, if he does not escape altogether, as is usually the case. This is, indeed, an age of progress. The saloon has gone, but in its stead have appeared the bootlegger, the hip-pocket flask and the drug peddler. The automobile has largely usurped the place of the road-house of unsavory memory. Public gambling and lotteries have been suppressed, and we now have the exclusive gaming house for women. The advocates of birth-control are mercilessly prosecuted, and the business of the abortionist flourishes as never before. Violation of the law seems to have a peculiar fascination, at the present day, for the youth of both sexes, in whom the atavistic predatory instinct of a savage ancestry is always powerful, though usually latent; and when to this is added the lure of "easy money" and the probability of escape, the attraction becomes irresistible. There is no deterrent influence in "moral suasion," but there is an abundance of it in the rigid and certain vindication of outraged law. The criminal, actual or potential, like his barbarian ancestors, respects nothing but force, applied with a relentless hand. Juvenile delinquency can only be effectually suppressed by making a conspicuous example of the experienced malefactor. Bankers and merchants have certainly a right to pursue their avocations without momentary danger of interruption by bands of armed thugs bent on robbery and murder, whom the law itself encourages by penalizing the possession of weapons with which the victim may protect himself.

A generation ago, Children's Courts, the *"Tribunales para niños"* of Spain were unknown; now they exist almost everywhere. Their office is rather admonitary than punitive, which divests them of much of that wholesome dread attaching to courts of criminal justice in general. The employment of the automobile, as a first aid to crime, is largely responsible for their institution and continuance.

Señor Lazaro-Junquera's work is excellent, but of an elementary character, as the penal laws of Spain do not discriminate as nicely between offenders of different ages as is done in this country. The old Roman and English rule that criminal responsibility is dependent upon the capacity to distinguish between right and wrong, is still generally applicable in the Peninsula. The mere fact that the culprit is young, is not sufficient to secure for him sympathy, indulgence, and immunity for the most atrocious and inexcusable acts. The interest taken by Spanish lawyers in the subject is shown by the edition of the book having

been almost immediately exhausted. (Editorial Reus, Cañizares 3, dupd. Madrid.)

MIGUEL ROMERO (M). *Comentarios a la ley de Enjuiciamiento civil.* Of the many treatises on the rules of procedure in the Spanish tribunals, this is one of the best. Its principles are explained with a minuteness and a lucidity not often seen even in a law book. If the Spanish law student is not thoroughly informed of the manner in which he should conduct his cases, it is certainly not the fault of the numerous learned writers on this important subject. (Editorial Reus, 3 Cañizares dupdo. Madrid.)

LISTZ (F. V.) *Tratado de Derecho penal.* This is a complete and exhaustive treatise on criminal law in general, and that branch of jurisprudence, as administered in Spain, in particular. It begins with the history of penal laws from the earliest times, depicting the summary justice of society when scarcely organized; describes the modes of procedure of primitive tribunals, and the gradual development and perfecting of legal forms; enumerates the savage and cruel penalties which, during past ages, were imposed by irresponsible authority and servile legislation, many of them attributable to ecclesiastical intolerance, and traces the slow but marked improvement on the side of humanity and mercy.

The general nature of criminality, as well as the artificial character of offences which owe their origin to legislative enactment, as compared with those involving moral turpitude—the distinction in fact that formerly was made by the English law between what were known as the *mala-in se* and the *mala prohibita*—is discussed with much learning, evidently the result of prolonged and careful research; the various forms of breaches of the law, and their division into *delitos* and *faltas*, which are recognized by us as "felonies" and "misdemeanors," are all clearly and minutely set forth. The degrees of responsibility are also defined, and the various punishments prescribed for violation of the rules laid down by society for its protection, are stated at considerable length. There are three volumes of this able work, which constitutes a valuable compendium of criminal law. (Editorial Reus, Cañizares 3, dupdo. Madrid. Price, 42 pesetas.)

VECCHIO (*J.* DEL.) *La ciencia del Derecho universal comparado.* Another, and a highly erudite work on the science of comparative law, which embraces in its scope the jurisprudence of all civilized races, and exhibits its resemblances and contrasts as manifested in the origin, adoption and application of legal principles; records the progress of legislation; and furnishes interesting data by means of which a better understanding of the judicial maxims and procedure of foreign nations may be obtained.

The frequent publication of books on Comparative Law, especially in Spain, indicates a growing interest in this heretofore greatly neglected and most useful branch of legal knowledge, whose value in familiarizing members of the profession with the judicature of foreign lands, and enlarging their minds, often contracted by a too close attention to one particular department of this science, to the exclusion of everything that does not offer a prospect of immediate pecuniary gain, is certainly an encouraging sign of the times. While the Codes of Roman derivation are considered to have had but little influence in the formation of Anglo-Saxon laws, as a matter of fact, the jurisprudence of England and America is much more indebted to these exhaustive compilations than is commonly believed; and the diligent study of the Civil Law and the systems based upon it, cannot fail to be highly advantageous to every jurist and advocate of those countries, no matter how learned he may be in the principles of the Common Law and their proper and judicious application.

S. P. S.

Switzerland

Preface

Before closing this report I received news from America that Mr. Gordon E. Sherman of Morristown, N. J., had died, whose lucid reports on Swiss legal affairs were certainly known to all readers of the "Bulletins." His death means a great loss to the Comparative Law Bureau; for, as a Swiss lawyer I am in a good position to realize to how great an extent he was conversant with Swiss legislation and Swiss conditions.

Mr. Sherman used to report on all kinds of Swiss legal affairs. In 1925, however, he turned over to the undersigned the reporting on Swiss internal legislation and bibliography, retaining but the field of international aspects in Switzerland.

His unexpected death has deprived our readers of a statement regarding the international aspects in 1925, as so short a time forbids me to make a similar report which could favorably compare with those of our late Gordon E. Sherman.

Nevertheless, before starting to discuss internal legislation, I have to recall the fact that it was in a Swiss city—Locarno—that the famous conference took place which marks a definite progress toward international peace. That Locarno happens to be a Swiss City is of symbolic importance in view of the fact that Switzerland, as its history shows, has been and still is one of the foremost pioneers of international arbitration. The recent entering into conciliation or arbitration treaties with France, Italy, Belgium, Hungaria, Poland, Turkey, Japan and the Argentine Republic, sufficiently proves that the spirit of Geneva and Locarno is at work in Switzerland.

Swiss Internal Legislation, 1925

It is often contended that too many laws are being made in America. But, if this contention be true of America, it is the more true of Switzerland. Year by year there are appearing a great many new laws on the statute books of the Swiss Confederation and the various Cantons.

After the completion of Germany's social insurance legislation, a movement soon sprang up in Switzerland calling for similar laws. The first step—as in America—consisting of the creating of the constitutional basis, has been made in 1925. On December 6, 1925, an overwhelming majority of the Swiss people voted in favor of an amendment extending the present insurance system to include invalidity, old age and survivor insurance.

It is important to note that the emergency laws—federal and cantonal—concerning the protection of tenants, enacted at the close of the war, will be repealed on November 1, 1926.

On August 1, 1925, the Confederation enacted a law regarding the trade in narcotics and subjecting it to a severe control. Although the constitutionality of this law is rather doubtful, it certainly means a great progress.

Under the Swiss constitution the Confederation has the right to legislate in regard with wild animals.

Such a law promoting the protection of game and birds was passed on June 10, 1925.

Further, various federal laws have been enacted of minor general interest concerning rather technical details in military and postal matters and which, therefore, need not to be mentioned here.

A great deal of preparatory work was done by the Swiss parliament and its committees. Law making is rather slow in Switzerland and it may take years until a certain law is finally passed. So the first draft of the Swiss Penal Code was made over 50 years ago and the final draft is still under discussion.

Considerable work was further done by modifying that part of the code which deals with the law of commerce (corporations, negotiable instruments, etc.).

Article 114 bis of the federal constitution prescribes the establishment of a federal court of administrative law (Verwaltungsgericht). On March 27, 1925, the draft in connection therewith was published. Such a court, having cognizance of suits against the federal administration is a real need, because individuals are at present not yet afforded full protection in administrative matters.

Before leaving the field of federal jurisprudence, I have to mention an automobile act which will be adopted by the Legislature early in 1926. Because of the comparatively small size of the Swiss territory, it is very desirable that the motor car provisions of the different Cantons be replaced by a federal act.

It is of course not possible—even in a most summary way—to mention all the events of legal interest in the 22 Cantons occurring during the period of 1925. So a few words must suffice.

The Canton of the Grisons (Graubünden), the scenic beauty of which is certainly known to many Americans, finally opened its roads to motor traffic; before, this state was a forbidden paradise for private motor cars.

The Canton of Zurich, one of the most important states of the Confederation, tried to enact a new inheritance and gift tax law. However, it was rejected by the people, probably, because the law comprised all kinds of gifts and granted but small or no exemptions at all.

I cannot close this report without mentioning the controversy between one of the Cantons—Basel-Land—and the Confederation as to the exercise of the latter's power of eminent domain. The Northeastern Powerworks which are producing, selling and exporting electric power, had decided to construct a new cable which, leading through different Cantons, was also to cross that of Basel-Land. At the same time said corporation was granted by the Federal Council (the Swiss Executive, consisting of seven members) the right to exercise the power of eminent domain (on February 6, 1925); without this right it would have been impossible for the corporation to construct this cable. But the Canton of Basel-Land strongly opposed these measures, alleging that they violate the state rights. Her lawyers argued that under the federal act of eminent domain the Federal Council was only entitled to grant the right of eminent domain, if public welfare justifies and commands its exercise. Confirmed in her attitude by an opinion of Mr. F. Fleiner, a famous Swiss jurist, Basel-Land contended that the construction of this cable could in no wise be justified here by public interest. The Swiss Supreme Court, however, unanimously decided in favor of the Confederation, stating that the Federal Council has—generally speaking—the right to grant the power of eminent domain under similar or like circumstances and that under the laws in existence, the Supreme Court has no means to investigate whether upon the merits of the case the federal Act of eminent domain was in all respects strictly complied with. This decision, though unanimously made, has met with many criticisms.

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C. O. J.

Japan

Legislation, 1924

Law No. 15. Authorizes the Imperial Government building up new cities of Tokio, Yokohama and four other districts destroyed by the earthquake in the

year of 1923 and that for meeting a part of the expenditure a sum of 200,000,000 yen is to be raised by bonds within next five years.

Law No. 16. A sanction was given for a judge in the city court assisted by a jury of five men to form a court of landlord and tenant. This court may hear and determine litigations arising from contracts of renting city residences and other difficulties with which tenements are concerned. An action can be brought to the court by any persons of legal age or by his guardian without a professional representative assisting him. The regular charge by the court per action is twenty-five cents.

Law No. 18 establishes a court of rural districts. Its jurisdiction extends over controversies rising from contracts for renting land for agricultural use. An action can be carried through under a simple procedure, but it is believed to be an arbitration rather than a strict lawsuit. The cost due to the court is twenty cents per action.

Law No. 19 is an amendment to the law of citizenship, applicable to the subjects of the Emperor of Japan residing in the U. S. A., Dominion of Canada, Republics of Brazil, Chile and Peru to the effect that a person born in any one of those aforesaid states and acquired of the citizenship thereof because of his birth, shall be considered as the citizen of that nation, unless he shall declare that he is a subject to the Emperor of Japan.

Law No. 24 is known as the luxury law, declaring one hundred per centum of duty on one hundred twenty-three different articles of merchandise upon importation.

Legislation, 1925

Law No. 14 authorizes an appropriation of a sum of 130,000,000 yen for the maintenance of schools in rural districts. It aims to meet the necessities of persons of agricultural occupation in the modern standard of education, which would be favorable to them in alleviating themselves from difficult economic condition.

Law No. 25 directs a formation of exporters' association. Those who export the same sorts of articles of merchandises and those who have their markets in the same localities or countries may form a union called the exporters' association under the supervision of Secretary of Commerce and Artizans. The object of the union is to eliminate unnecessary competition, restraint of unfair dealing, encouragement and development of foreign commerce.

Law No. 28 incorporates manufacturers' union. Artists, artizans and other makers of articles designed for foreign commerce may form a union known as the manufacturers' union under the supervision of Secretary of Commerce and Artizans. Leadership, mutual aid, and investigation of markets are alleged its objects.

Law No. 29 allows the manufacturers of dye materials a subsidy of 4,000,000 yen for a year, under the condition that they are to pursue investigations and carry certain experimental works under the direction of Secretary of Commerce and Artizans.

Law No. 35 indemnifies the Bank of Japan to the extent of 100,000,000 yen as the loss due to all the negotiable instruments which the Bank of Japan had indiscriminately discounted in pursuance of the Imperial Edict No. 424, promulgated in the year of 1923. No bill and note which is payable at the places other than the stricken districts specified by the aforesaid edict can be indemnified.

Law No. 44 requires of druggist who has a prescription department in his store, to keep it open for business twenty-four hours on any day; and that no druggist shall keep more than two stores where he holds prescription departments.

Law No. 46 is known as the peace law. It aims at persons of anarchist and socialistic ideals, making any denunciation either by speech or writing or accessory to it against the private ownership of property or any advocation for a change in form of the present government an offense punishable over seven years' imprisonment.

Law No. 47 is an amendment to the election law. Any person over the age of twenty-five years, with exception of paupers and ex-convicts of felony, shall be entitled to one vote in electing a member of the House of Representatives.

Any person of the age of thirty shall have right to be elected a member of the House of Representatives.

J. G. K.

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Karl Georg Wurzel. Vienna. Johann L. Bondi. Sohn, 1924. Pp. ix-160. 19 Illinois L. Rev., 715.

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Book Reviews

The Evolution of the Roman Law. Second Edition. By Charles S. Lobingier. American Law Book Co., New York, and John Byrne & Co., Washington, 1923. Pp. v and 319. $4.25.

Almost universally admitted is the intellectual value of Roman Law study to 20th century lawyers desirous of attaining front rank in their profession. The revival in the United States of the study of Roman Law has already reached ample proportions which are yearly widening. Rome's most surpassing conquest of the world by her law has not passed away, and there is no sign that it will pass away so long as mankind endures. The modern world is rapidly growing together. In the words of Chief Justice and Governor Simeon E. Baldwin, "a knowledge of Roman Law, at least in outline, and sufficient familiarity with its literature to tell . . . where to look for the rules on any point is almost a necessity for what we call the 'international' lawyer." Or, as Lord Bryce said in his *Valedictory* Lecture at Oxford, "the Roman Law is indeed world-wide, for it represents the whilom unity of civilized mankind. There is not a problem of jurisprudence which it does not touch; there is scarcely a corner of political science on which its light has not fallen."

Judge Lobingier's excellent work, now arrived at the well-deserved dignity of a second edition, entitles him to a prominent place in the ranks of American Civilians or Romanists who will be remembered for their lasting literary productions. His book also reveals the marked evolution of quality characterizing the newest and latest works of American writers on Roman Law; for instance, in publishing in parallel columns both the Latin text and his translated English text of Roman Law excerpts compiled from the sources of that law, Judge Lobingier has greatly improved upon the older method and arrangement of earlier Roman Law source books in English (like Pound's *Readings in Roman Law*), where only the English translation of Roman Law sources is given, the Latin text being omitted. Judge Lobingier thoroughly exemplifies Lord Macauley's scholarly maxim, "in all cases certainty." Judge Lobingier gives his readers the cumulative illuminating effect of the original texts of Roman Law, plus his English translation. Success has crowned the learned author's work, which is now used as a textbook in law schools, both in America and also in the Far East, thus appropriately gracing the distinguished judicial career of the author in the Philippines and China.

The author, in his lucid treatment of the historical development of Roman Law, has tried to show that Roman Law was a *growing* thing, the development of which is clearly visible in successive stages; and, in his presentation of the subject first synthetically, and then analytically, he directs the reader to the Roman Law *itself* via copious passages from the sources of that law—Latin texts and English translations arranged in parallel columns. Attention is thus forcefully directed to the Roman Law itself, and the reader is not limited to studying *about* Roman Law. While the ante-Justinian phase of the evolution of Roman Law is rightly and amply stressed, yet if in a succeeding edition the learned author would add a chapter or supplement to existing chapters showing via excerpts the changes of moment made by the Justinianean law, the cycle of evolution so happily described by him would be accomplished in repletion with juridical benefits.

The analytical syllabus of topics, preceding every chapter, is a special feature of the second edition as well as of the first, which will be found to be most useful.

Irrefutable is the wisdom of the author concerning the place of Roman Law study in the curricula of American Law Schools, and thereon the reviewer would repeat what he wrote in his review of Judge Lobingier's first edition: "After analyzing the present great study value of Roman Law, Judge Lobingier holds—and *correctly*—that American law students need and should receive instruction in Roman Law 'following immediately upon under-graduate work and preceding any considerable advance into the technical field of modern law. The gulf between these two . . . is very wide, but Roman Law supplies the bridge which renders passage comparatively easy. The bridge is of little value if it is not to be used until the passage is accomplished by some other method, however laborious and fatiguing. . . . Roman Law should be the first subject in the technical curriculum.'" Boston, Feb. 17, 1926. CHARLES P. SHERMAN.

PROPOSED AMENDMENTS

Proposed Amendments to Constitution and By-Laws of the American Bar Association, to Be Presented by Frederick A. Brown, Chairman of the Committee on Scope and Plan, and Acted Upon at the 49th Annual Meeting at Denver, Colorado, July 14, 15 and 16, 1926

Notice is hereby given of the following proposed amendments to the Constitution:

Amend Article IV entitled "Officers, Committees and Sections" by striking therefrom the following "On Commerce, Trade and Commercial Law," and inserting in place thereof the following:

"On Commerce;
On Business and Bankruptcy Law;
On Air Law."

Notice is hereby given of the following proposed amendments to the By-Laws:

Amend Article VII entitled "Officers and Committees" to read as follows:

"The President shall appoint all committees, including special committees, and shall announce the appointments to the Secretary, who shall give notice to the persons appointed.

"There shall be appointed annually by the

President a committee to be known as the Reception Committee, whose duty it shall be to attend immediately before and at the opening of the first day's session of the meeting to receive members and delegates and introduce them to each other.

"The other committees shall have the following powers and duties:

1. *Committee on Commerce.*—The Committee on Commerce shall study the present status of federal and state laws and proposed amendments thereto pertaining to or affecting interstate or foreign commerce, recommend to the Association as occasion may require such action by the Association as may be deemed proper, and consider and report on such other matters as in the judgment of the committee are reasonably pertinent to the subject of foreign and interstate commerce and the laws relating thereto.

2. *Committee on Business and Bankruptcy Law.*—The Committee on Business and Bankruptcy Law shall keep itself advised as to amendments proposed to the bankruptcy act and to other acts embracing business law in which the Association may be interested other than matters within the field of interstate or foreign commerce.

3. *Committee on Air Law.*—The Committee on Air Law shall have power to consider and report on all questions pertaining to the law of aeronautics and radio.

4. *Committee on International Law.*—The Committee on International Law shall have power to consider and report on all matters having to do with International Law.

5. *Committee on Insurance Law.*—The Committee on Insurance Law shall report to the Association annually changes in the laws relating to insurance with such recommendations concerning the improvement or interpretation of the laws relating to the management, regulation and supervision of insurance companies as to the committee may seem proper.

6. *Committee on Jurisprudence and Law Reform.*—The Committee on Jurisprudence and Law Reform shall have the power to consider and report concerning all matters of jurisdiction and procedure in the State and Federal Courts, including reforms of the substantive law.

7. *Committee on Professional Ethics and Grievances.*—The Committee on Professional Ethics and Grievances shall:

(a) Assist State and Local bar associations in their activities in respect to the professional conduct of lawyers and the ethics of the profession; make such investigations of professional conduct and of abuses in connection with the practice of law as may be directed by the Association or the Executive Committee; furnish information and make recommendations on the foregoing subjects to the Executive Committee and the Association.

(b) Be authorized to express its opinion concerning proper professional conduct when consulted by members of the Association or by officers or committees of State or Local bar associations. Such expression of opinion shall only be made after a consideration thereof after a meeting of the committee and approval by at least a majority of the committee.

(c) Be authorized to hear, in meeting of the committee, charges of professional misconduct preferred against any member of this Association. The accused member shall be given notice of the nature of the complaint and of the time and place of hearing, and reasonable opportunity shall be given him or her to submit evidence and argument in defense. As a result of such hearing the committee may censure the accused member or it may recommend to the Executive Committee the forfeiture of the right to membership of any such member.

8. *Committee on Admiralty and Maritime Law.*—The Committee on Admiralty and Maritime Law shall be charged with the duty of considering bills introduced in Congress, decisions of the courts, and projects of International Conferences which affect the maritime law of the United States, and of recommending such changes in our laws as are desirable.

9. *Committee on Publicity.*—The Committee on Publicity shall prepare and supervise for publication in the public press any and all information and news items concerning the activities of the Association, which in the judgment of the committee, may be of general interest to the public or to the bar.

10. *Committee on Publications.*—The Committee on Publications shall, subject to the control of the Executive Committee, have jurisdiction over all publications of The American Bar Association, except the JOURNAL.

11. *Committee on Noteworthy Changes in Statute Law.*—The Committee on Noteworthy Changes in Statute Law shall report annually to the Association the noteworthy changes in the law resulting from statutes passed by Congress and by the State Legislatures.

12. *Committee on Legal Aid Work.*—It shall be the duty of the Committee on Legal Aid Work (1) to maintain a continuing study of the administration of justice as it affects the poorer citizens and immigrants throughout the country, (2) to promote remedial measures intended to assist poor persons in the protection of their legal rights, (3) to encourage the establishment and efficient maintenance of legal aid organizations, and (4) to co-operate with other agencies, both public and private, interested in these objects.

13. *Committee on American Citizenship.*—It shall be the duty of the Committee on American Citizenship to inspire in the people of the United States a proper appreciation of the privileges as well as the duties of American Citizens.

14. *Committee on Membership.*—It shall be the duty of the Committee on Membership to endeavor to bring into the Association such members of the Bar as are qualified for membership under the By-laws. It shall consist of such number as the president may appoint.

15. *Committee on Memorials.*—It shall be the duty of the Committee on Memorials to prepare and present at the Annual Meeting of The American Bar Association, a list of the members of the Association who have died during the preceding year.

Amend by inserting after Article IX a new Article to be known as "Article X," to read as follows:

"Whenever a Committee is considering any subject respecting proposed State Legislation, it shall confer with The National Conference Commissioners on Uniform State Laws."

Amend present Article X by adding to paragraph 3 the following:

"When a committee representing a section of the Association or The National Conference of Commissioners on Uniform State Laws reports the work and recommendations of such section or conference such report may be considered or acted upon at any meeting of the Association immediately following or held contemporaneously with such meeting of such section or conference, without being previously distributed as above provided."

Amend present Article XII by adding thereto a paragraph to be designated "7" which shall read as follows:

"Whenever a section is considering any subject respecting proposed State Legislation it shall confer with The National Conference Commissioners on Uniform State Laws."

Amend the numbers of present Articles X, XI and XII to read XI XII and XIII respectively.

Opinion of Committee on Professional Ethics and Grievances No. 9

Solicitation—Volunteering of information as a form thereof

Stirring Up Litigation—Volunteering information as to International claims

The Committee considered a complaint against a member of the Association practicing in Washington, D. C., who specializes in international law. The complaint was based on the fact that the firm of which this attorney was a member was sending to those who had claims against the Mexican government a circular letter, the body of which read as follows:

> A Special Claims Convention, signed on September 8, 1923, between the United States and Mexico, has been approved by the United States Senate and also, we are advised, by the Mexican Congress. It is understood that a Claims Commission will be shortly organized for the assessment of losses or damages sustained by citizens of either country, including companies, arising from the acts of regular or insurrectionary forces, bandits, etc., occur-

ring between November 20, 1910, and May 31, 1920, inclusive. Mexico agrees to pay in gold the awards of this Claims Commission.

A General Claims Convention, signed on the same date, providing for the settlement by a Commission of claims against Mexico not covered by the Special Claims Convention above mentioned, has also been approved by the United States Senate and, as we are advised, by the Mexican Congress with certain amendments.

The Commission under these two conventions will in due course issue regulations as to the manner of filing claims. Meanwhile, it is important that all evidence necessary to support claims against Mexico be procured at the earliest possible date in appropriate form for presentation to the Commissions when the claims are filed.

In his answer the respondent contended:

1. That as the letter contained no appeal of employment it was not a letter of solicitation within the meaning of Canon 27.

2. That it was the duty of attorneys engaged in international practice, having knowledge of the facts to inform claimants of the opportunity offered them for redress.

3. That as the International Claims Commission was not a "court," practice before it would not be "litigation" so that the furnishing of this information did not fall within the inhibition of Canon 28.

The attorney's answer in part is as follows:

The circular contained no appeal and no suggestion of employment. It was a mere statement of facts which had been received from official sources. The information was sent out as being of considerable interest to American citizens who had claims against Mexico and was not sent out for the purpose of advertising, directly or indirectly.

Moreover it is clear that it is in the interest of the individual American claimant, as well as in the interest of the United States Government, that the former should be promptly advised as to the terms and conditions for the submission of claims and as to the periods fixed for the presentation of evidence establishing the damages which he or she has sustained. . . . It was solely in the interest of the claimants in general and for the purpose of disseminating knowledge regarding this extraordinary practice (before a Claims Commission) that the circular letter referred to was issued.

It may be added that, quite contrary to any solicitation of business, the circular letter shows that it is not even necessary for claimants to employ attorneys to assist in the filing of claims. . . . However, it cannot be denied that many claimants are unable to follow the directions laid down in the regulations of the commissions, and have not the slightest idea of the procedure which should be followed in submitting their proofs to the Agent of the United States. This arises as a rule through their ignorance in respect of such matters, and we know . . . that the expiration of the time limit fixed in international claims conventions for the filing of claims always finds many persons failing to realize their opportunity to present their claims to the American Agency until the time fixed had elapsed. Claimants, who through ignorance have thus barred themselves from possible recovery and who later address the Department of State seeking redress, are advised by the Secretary of State that the time for presentation of claims has elapsed and the claims are barred by treaty.

Attorneys engaged in international practice, who know of Americans having claims which should be presented to a temporary international commission and who do not inform such claimants of the passing opportunity offered them for redress, would be, in our opinion, wanting in due appreciation of their duty to their fellow citizens and to their government; and, if the claims are subsequently barred by failure to present them within the limited time prescribed by the treaty because of the lack of information, it would seem to impress the withholding of such information with a constructive responsibility for the lapse of such claims. . . .

Assuming, for the purpose of argument only that Canon 28 applies to such cases, it is submitted that the circular letter in question does not violate that Canon. It does not volunteer advice to bring lawsuits, nor does it have a tendency to stir up strife and litigation. It does not attempt to seek out causes of action or to do or tend to do any other of the things mentioned and deplored in Canon 28, for it merely gives information which may be useful to those, who are unfamiliar with the unusual and little-known procedure in the settlement of international claims for which international commissions are only on rare occasions created by treaty, and whose hopes of redress may be forever lost through lack of such information.

The Committee's opinion was stated by Mr. Howe:

The contention that there is any duty upon a lawyer, in any branch of the law, to furnish presumptive claimants or litigants, with whom he has had no previous personal or professional relations which would justify such action, information as to how and when their claims must be presented, is untenable. The furnishing of such information by a lawyer to such persons, on his letterhead and over his signature, necessarily carries with it the implication that the lawyer is familiar with the subject and would be glad to be employed in connection therewith. As such it becomes a form of solicitation. Canon 27 condemns advertising and soliciting of any nature.

The advocacy of claims before an International Claims Commission, empowered to make awards, may not be "litigation" within the strict meaning of that word, though that word has sometimes been defined as "any controversy that must be decided upon evidence." Quite irrespective of any precise definition, it is the opinion of the Committee that to volunteer information by a letter, such as was employed in this case, regarding claims to be presented to such a commission, is unbecoming and is conduct of the very nature condemned by Canon 28.

MEMBERSHIP IN AMERICAN BAR ASSOCIATION

Qualifications

THE constitution declares membership in good standing at the bar of any state during the last three years (part of which may have been spent in one state and part in another) a prerequisite to election.

Dues

The dues are $6.00 per year. There is no initiation fee. Member receive, as perquisites of membership, the monthly "American Bar Association Journal" and the printed annual reports of the proceedings of the Association, constituting a valuable year book of the profession in this country, in which their names are listed as members, both in the alphabetical list and in the list of members arranged by cities and towns in states.

Life Membership

Annual dues, at the option of any member, may be commuted by the payment of $200.00 at one

time; and thereafter no further dues shall be payable by any such member.

Application Blanks

Blank applications for membership in the American Bar Association may be obtained by applying to any of the following:

Membership Committee

Frederick E. Wadhams, Chairman; 78 Chapel street, Albany, N. Y.
Simeon E. Baldwin, 11 Center street, New Haven, Conn.
Moorfield Storey, 735 Exchange Bldg., Boston, Mass.
Francis Rawle, Packard Bldg., Philadelphia, Pa.
Henry St. George Tucker, Lexington, Va.
Alton B. Parker, 61 Broadway, New York City.
Jacob M. Dickinson, 231 So. La Salle St., Chicago, Ill.
Frederick W. Lehmann, 600 Merchants Laclede Bldg., St. Louis, Mo.
Frank B. Kellogg, 1512 Merchants National Bank Bldg., St. Paul, Minn.
Peter W. Meldrim, 1007 National Bank Bldg., Savannah, Ga.
Elihu Root, 31 Nassau St., New York City.
George T. Page, 605 Federal Bldg., Chicago, Ill.
Hampton L. Carson, 921 Weightman Bldg., Philadelphia, Pa.
John W. Davis, 15 Broad street, New York City.
R. E. L. Saner, 1412 Magnolia Bldg., Dallas, Texas.
Charles E. Hughes, 100 Broadway, New York City.

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Arkansas—Louisiana—Texas

First Tri-State Bar Meeting

The Bar Associations of Arkansas, Louisiana and Texas, in their Annual Meetings at Texarkana, April 22, 23 and 24, 1926, set an example that Bar Associations elsewhere can emulate with profit to themselves and benefit to the legal profession generally. In addition to separate sessions for the transaction of their business, the three Associations joined in presenting a general program of high order. The idea underlying the program was to present speakers of note from the country at large, and to supplement these by representatives of the three States. The addresses were able, the general entertainment most excellent, the banquet brilliant, and the spirit of fellowship fine. About 600 lawyers registered, and their enthusiasm was great. The event fully justified the wisdom of those who planned the meeting, and there is sure to be a strong demand for its repetition in the near future.

The general meeting was called to order at ten A. M. on Thursday, April 22, by Hon. W. H. Arnold, of Texarkana, chairman of the general arrangements committee. He introduced Hon. A. H. McKnight, of Dallas, President of the Texas Bar Association, who presided over the sessions of the first day. The program included an address of welcome by Hon. Paul Jones of Texarkana, and responses to the address by Judge A. H. Carrigan, of Wichita Falls, for Texas; Hon. Harry P. Daily, of Fort Smith, for Arkansas, and Hon. E. H. Randolph, of Freeport, for Louisiana; address, "Liberty with Government," by President Chester I. Long, of the American Bar Association; address, "What the Universities should do for the Legal Profession," by William R. Vance, of the Yale University Law School; and an address, "The Consanguineous Legal Systems of Arkansas, Louisiana and Texas," by Hon. Henry P. Dart, Sr., of Louisiana.

Hon. Esmond Phelps, President of the Louisiana Bar Association, presided at the session on Friday, at which the following addresses were delivered: "The Progress and Development of the Law," by Hon. E. A. McCulloch, Chief Justice of the Supreme Court of Arkansas; "The Bill Authorizing the United States Supreme Court to made Rules for the Trial of Actions in the United States District Courts," by U. S. Senator Thomas J. Walsh, of Montana.

Hon. George B. Pugh, President of the Bar Association of Arkansas, presided at the meeting on Saturday at which Hon. T. W. Gregory, of Texas, former Attorney General of the United States, delivered an address on "Woodrow Wilson and the League of Nations," and Hon. Albert J. Beveridge spoke on "The Development of the American Constitution under John Marshall."

Separate Meetings by State Associations

In addition to the general meeting, separate meetings of the three state bar associations were held. That of Arkansas was called to order by W. T. Wooldridge, chairman of the executive committee. Hon. George B. Pugh delivered the presidential address on the subject, "Our Supreme Court." After reports of various committees were heard, Hon. Thomas J. Gaughan, of Camden, was chosen president, and Hon. W. T. Wooldridge, of Pine Bluff, vice-president. Mr. R. R. Lynn was re-elected secretary-treasurer.

The separate meeting of the Texas state bar association met and heard the address of President A. H. McKnight and reports of various committees.

Following is a report of the separate meeting of the Louisiana association as furnished by Secretary Young:

The Tri-State meeting at Texarkana was, by those who attended, universally approved and considered a wonderful meeting and success in every particular. The program was excellent. It was compared, in many respects, with the meetings had by the American Bar Association, which we feel is not in the least taking from that great institution any of the laurels to which it is so justly entitled. The comparison is an honor to both. President Chester I. Long of the American Bar Association, whom we had the pleasure of having as a guest, delivered a masterly address. He was very favorably impressed with the meeting and was among the foremost who made the comparison above referred to. The idea of the tri-state meeting seems to be a new thought—certainly it was in this part of the country. The opportunity of meeting our brothers-in-law, the forming of new acquaintances,—with the possible ripening into friendship—was taken advantage of. We are of the opinion that the idea of joint meetings should be advocated.

One of the most important matters coming up for attention at our business session held during the tri-state meeting was the proposed appointment of a separate committee to take care of disbarment proceedings. At present the Committee appointed by the Supreme Court of our State, upon recommendation of the Executive Committee of the Association, for the purpose of examining applicants for admission to the bar, also acts as the disbarment committee. It is the thought of many that an examining committee for admission to the bar is taxed as much as it should be, especially when the fact that it has two examinations a year to take care of, and all applicants for admission to the bar—including graduates from the Louisiana Universities of law—must be examined by it, is taken into consideration. The Examining Committee is doing a wonderful lot of work and as a Disbarment Committee has done much good toward the betterment of the profession, but a separate Disbarment Committee would be in a position to have its hearings with less delay, give the matters before it closer attention and speedier conclusions and terminations would be reached.

The officers elected are: Sidney L. Herold, Shreveport, President; Burt W. Henry, New Orleans, Vice-Pres. 1st Dist.; J. D. Barksdale, Shreveport, Vice-Pres. 2nd Dist.; R. F. White, Alexandria, Vice-Pres. 3rd Dist.; M. Cary Thompson, Monroe, Vice-Pres. 4th Dist.; Charles C. Bird, Baton Rouge, Vice-Pres. 5th Dist.; L. P. Caillouet, Thibodaux, Vice-Pres. 6th Dist.; W. W. Young, New Orleans, Secretary-Treasurer.

A meeting of the association will be held in New Orleans, La., on the 8th of May for the purpose of ratifying the business session held by the Association during the tri-state meeting.

W. W. Young, Secretary.

Provision for the entertainment of visiting delegates and their wives was complete and satisfactory. After the close of the Thursday afternoon session delegates and their wives were taken for a drive over the city and to the country club golf course, after which there was a reception at the club house by Mrs. J. M. Carter and Mrs. W. H. Arnold. In the evening a garden party was given for members, ladies and guests of the three associations by Judge and Mrs. W. Lee Estes, of Texarkana. At 1 P. M. Friday there was a luncheon for visiting ladies given by wives of local attorneys, followed by a musical program, and at 8 P. M. there was a reception in honor of the presidents of the bar associations of Louisiana, Arkansas and Texas. Saturday afternoon there was a lawyers' golf tournament at the Texarkana Country Club under the auspices of Judge William Hodges, R. P. Dorough, W. H. Arnold, Jr., and William Earl Buchanan, and a tea for visiting ladies at the home of Mr. and Mrs. Noah P. Sanderson. Saturday afternoon there was a banquet at which the ladies were present.

Indiana

Admission Qualifications in Indiana

"In connection with the efforts of the Indiana State Bar Association to secure admission to the bar in Indiana on a basis of written examinations to test the legal knowledge of the applicant, there has arisen a very interesting case in Vanderburgh County. The bar association in Vanderburgh County has been trying to enforce the 'Uniform Admission Rules' as prepared by a committee of the Indiana State Bar Association under the direction of James M. Ogden. Recently Mr. William Axton, a real estate agent of Evansville, who had not had thorough legal training, applied for admission to the bar before the circuit court of Vanderburgh County as a matter of constitutional right. He represented merely that he was a man of good moral character. The Vanderburgh County Bar Association objected to Mr. Axton's admission to the bar, alleging that he did not have the requisite knowledge to qualify him for practice as an attorney at law and that it would be tantamount to the practice of fraud upon

the public for an attorney without legal training to practice the profession of the law. Mr. Axton through his attorney, Ollie C. Reeves, contended that he had a constitutional right to practice law in this state upon a showing of good moral character regardless of his legal training. Mr. Frank C. Gore is named as the plaintiff in the bar association's petition against the admission of Mr. Axton and attorneys Paul Schmidt and George Heilman handled the case for the bar association.

"The question of Mr. Axton's fitness for admission to the bar was submitted by Judge Charles P. Bock to a jury on Thursday, March 18. The jury returned the verdict that Mr. Axton was not fitted to be a member of the bar but in answering a special interrogatory the jury found that Mr. Axton was a man of good moral character. The bar association interprets that as a finding in their favor. Mr. Axton's attorney still has the privilege of filing various motions on this verdict. There are no further reports in the case for the month of March.

"At least a temporary victory has been scored by the Indiana State Bar Association in its effort to require candidates for admission to the bar to pass a written examination testing their legal knowledge. Mr. Joseph Harrington of Jeffersonville applied to the supreme court of the state for a writ of mandamus compelling James W. Fortune, Judge of the Clark County Circuit Court, to permit him the privileges and rights of practicing law in Clark County. William A. Pickens, Vice-President of the Indiana State Bar Association, and James M. Ogden, Chairman of the Association's committee on Legal Education and Uniform Rules for Admission to the bar, spoke in behalf of Judge Fortune before the Supreme Court when the case was argued. On Tuesday, March 9, the Supreme Court refused to issue the writ against Judge Fortune."—*Indiana Law Journal* (April).

State Bar to Prepare Legislative Program

"A joint meeting of the committees of the Indiana State Bar Association on Legislation, Jurisprudence and Law Reform, Legal Education, and Re-Organization of Supreme and Appellate Courts was held at the State House in Indianapolis on Friday, March 5. The joint meeting of these committees was called by President George O. Dix of the association to effect a legislative program for the next meeting of legislature which would receive the support of the Indiana State Bar Association. A very large attendance of these committees was present. President Dix appointed a committee to cooperate with a committee of the Chamber of Commerce in forming a joint legislative program. The members of the committee representing the state bar association are Dan W. Simms, Elmer E. Stevenson, James M. Ogden, and Joseph H. Shea.

"Among other things this conference of bar association committees pledged its hearty support of the new 'Uniform Admission Rules' which aim to limit admission to the bar to those who can pass a written examination testing their legal knowledge. The Indianapolis News for Monday, March 8, printed an editorial in vigorous endorsement of this movement of the state bar association to raise the standards of the legal profession in the state through requiring written examinations for admission to practice."—*Indiana Law Journal* (April).

Active Association at Gary

In Gary we have had a very active Bar Association for a number of years. For the last two years we have had monthly dinner meetings with distinguished visitors as speakers. Our success has been phenomenal. Our Bar has not only drawn many inspirations from our distinguished guests, but our meetings have developed the social side of life and created much cordiality among the lawyers of our city. In fact we have reached quite beyond the confines of our city, and many lawyers, judges, and professors of law of other communities and cities frequently attend our meetings.

We had a meeting of our Association the 28th of April, at which meeting we had as guest and speaker of the evening the Hon. Burr W. Jones of Madison, Wisconsin. He has not only been in the practice of law for nearly sixty years, but was professor of the law of Evidence at the University of Wisconsin for thirty years. In 1916 he was honored with the degree of LL. D. of the University of Wisconsin, and he retired from the Supreme Bench of Wisconsin the first of this year at the age of eighty. He delivered a splendid and fitting address on the "Life of Thomas Erskine," one time Lord Chancellor of England. In this address he not only developed theories of law first propounded by Erskine, but he developed the high character that a lawyer should attain, such as the life of Erskine so fittingly exemplified. Our meeting was very largely attended and the influence of the presence of a man like Mr. Jones, who has spent so many, many years in the practice of law, is a wonderful inspiration to the members of the Bar. Our Bar has accomplished fitting and lasting results through the medium of these meetings.

W. D. MILLER, President.

Local Associations Take Action

The Fifth District Bar Association (Indiana) has elected the following officers for 1926: John S. MacFaddin, Rockwell, President; George I. Kisner, Terre Haute, Secretary.

The Delaware County (Indiana) Bar Association elected Francis Shaw, President, at a recent meeting.

The Madison County (Indiana) Bar Association elected Albert Diven, President, and P. B. O'Neil, Secretary for the ensuing year.

The Crown Point (Indiana) Bar Association elected Mr. George Hershman, President, Mr. Edward F. Knight, Secretary, and Mr. Joseph Black, Treasurer.

Kentucky

Kentucky Bar Holds Annual Meeting

The Kentucky State Bar Association held its Twenty-fifth Annual Meeting at Frankfort, Ky., on April 8th and 9th, during the spring vacation of the Kentucky Court of Appeals. Its annual sessions have heretofore been held in July. There was an unusually large attendance and a very interesting program.

The President, Mr. John C. Doolan, of Louisville, in his annual address, reviewed the work of the Association during the past year and particularly urged that the Association devote attention to the subject of criminal law enforcement, a matter which has received slight consideration from the Kentucky State Bar Association. This same matter was treated in an address of Orie S. Ware, of Covington, Ky., whose subject was "Some Phases of Criminal Law and Procedure."

Mr. Robert R. Friend of Irvine, Ky., delivered an address on "Progression Through Conflict." Hon. Henry Upson Sims of Birmingham, Ala., delivered an address on "Organization of the Bar," and a Special Committee to Devise Means for Improving and Extending the Work of the Association, through its Chairman, Mr. Harry B. Mackoy, reported a bar organization act somewhat similar to the Alabama act and recommended its approval. As there is no session of the Legislature until after the next annual meeting of the Association, the Special Committee was continued with directions to report again at the next annual meeting.

The principal address was delivered by Hon. Eugene H. Angert of St. Louis, Mo., whose subject was "The Law is *not* a Jealous Mistress." Mr. S. Y. Trimble of Hopkinsville, Ky., delivered an address on "The Federal Constitution and its Amendment." Judge John F. Hager of Ashland, Ky., reviewed the lives of "Some Great Lawyers of Kentucky" and Hon. Wm. J. Fields, Governor of Kentucky, delivered an address on "Responsibility of Lawyers to Laymen."

The Special Committee on Revision of Section 246 of the Constitution, reported that while the amendment which proposed to remove the constitutional salary limit of five thousand dollars insofar as it affected Judges of the Court of Appeals and certain officers of cities of the first class had failed of adoption, the Association had managed to get through the 1926 Legislature a proposal to remove the five thousand dollar salary limit entirely, which proposal is to be submitted to the people.

Governor and Mrs. Fields, who were assisted in receiving by the Judges of the Court of Appeals and their wives, gave a reception for the members.

The following officers were elected: President, Hon. John D. Carroll of Frankfort, former Chief Justice of the Court of Appeals of Kentucky; Treasurer, Clinton M. Harbison, Lexington; Secretary, J. Verser Conner, Louisville; Executive Committee, J. K. Todd, Shelbyville; R. C. Simmons, Covington; S. S. Willis, Ashland; Otto A. Wehle, Louisville, and Clem S. Nunn of Marion.

J. VERSER CONNER.

Miscellaneous

News From Various Fields

The Fourteenth Judicial Circuit (Missouri) Bar Association was recently formed in Jefferson City, with about fifty members. Roy D. Williams, of Boonville, was elected President.

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of the Forest County (Mississippi) Bar Association, succeeding H. S. Stevens, at a recent meeting. Mr. Sam A. Witherspoon, of Meridian, made a talk at this meeting, outlining the method of organization and operation of the Lawyers' Co-operative Library in his city, and the local bar was so impressed that it expects to inaugurate a similar plan. Judge S. E. Travis was elected vice-president, D. T. Currie, secretary, and Earle L. Wingo was re-elected treasurer.

The Laramie County (Wyoming) Bar Association has adopted a resolution favoring the increase in the membership in the State Supreme Court from three to five. Figures were presented showing that the increase in business had been so great in recent years that it was impossible for the three members, working at high pressure, to take care of it. The membership of the court is limited to three by the state constitution, and an amendment would therefore be necessary to increase it. The resolution adopted by the association suggested the desirability of action by the legislature to authorize the appointment of court commissioners pending action on the constitutional amendment.

The Boulder County (Colorado) Bar Association, at its annual meeting in April, voted to extend an invitation to the American Bar Association to hold one of its sessions in Boulder in July. It also appointed a committee to investigate a minimum fee schedule for the lawyers of the county. The following officers were elected: Frank F. Dolan, Boulder, President; Jacob Schley, Longmont, Vice-President; Rudolph Johnson, Boulder, Secretary; C. D. Bromley, Boulder, Treasurer.

Plans for a complete reorganization of the Tulsa (Oklahoma) Bar Association and the carrying out of a progressive policy were adopted at the recent meeting of that organization. Herbert D. Mason was elected President; Judge Gerald F. O'Brien, Vice-President; James S. Buchanan, Secretary, and Hon. Albert C. Hunt, of the Oklahoma Supreme Court, Treasurer. The question of incorporation was considered. Plans were also discussed for establishing a satisfactory law library.

The Fourth Judicial District (Louisiana) Bar Association was organized at Monroe on March 30th. The following officers were elected: Fred Hudson, President; M. C. Thompson, First Vice-President; H. F. Madison, Second Vice-President; O. A. Easterling, Secretary. The purposes of the organization as outlined are to fix a minimum fee schedule, protect the public against unscrupulous lawyers and protect lawyers against unscrupulous clients.

The Bowie County (Texas) Bar Association elected N. L. Dalby, President, to succeed Hon. Thomas M. Graham, who resigned on account of ill health. Mr. J. I. Wheeler was elected Vice-President.

The Springfield (Missouri) Bar Association elected Val Mason, President; G. M. Sebree, First Vice-President; W. D. Tatlow, Second Vice-President; and E. C. Hamlin, Secretary, at a recent meeting. John H. Fairman was re-elected Treasurer.

President E. R. Glasgow, of the Spokane County (Washington) Bar Association, has appointed Roy E. Lowe, Ed B. Powers and George Lantz, members of a committee to draw papers for the incorporation of the association.

The Stoddard County (Missouri) Bar Association elected Ralph Wammack, President; Charles Liles, Vice-President, and E. M. Munger, Secretary and Treasurer.

Following the annual gridiron banquet of the Little Rock (Arkansas) Bar Association the following officers were elected for the coming year: H. T. Harrison, President; Clifton W. Gray, Vice-President, and W. A. MacDonald, Secretary.

The Washington State Bar Association will hold its annual meeting at Big Four Inn on July 29, 30 and 31, according to an announcement following a conference with Secretary W. J. Millard.

The Wyoming State Bar Association will hold its annual meeting at Sheridan on June 28 and 29, according to an announcement by Secretary Clyde M. Watts.

Secretaries of State and Local Bar Associations will confer a favor by sending the Journal news of the interesting and important activities of their organizations for publication in this Department.

Address all communications to American Bar Association Journal, Room 1119 The Rookery Building, No. 209 S. La Salle St., Chicago, Ill.

The Kenton County (Kentucky) Bar Association elected Helm Woodward president at the annual meeting at Covington. The following other officers were elected: Vice-President, R. G. Williams; Secretary, A. L. Inskeep; Treasurer, O. H. Roetken; Executive Committee—O. M. Rogers, John H. Klette.

Mr. S. A. Bucklen was elected president of the Sedgwick County (Kansas) Bar Association at the meeting recently held at Wichita. Messrs. W. F. Lilliston and O. H. Keach were elected members of the Board of Governors to serve for a term of three years.

Herbert N. Babcock was elected president of the Chemung (New York) County Bar Association at the annual meeting on December 23 at Elmira. The following other officers were chosen: Thomas M. Losie, first Vice-President; Halsey Sayles, second Vice-President; Walter C. Garey, Secretary; Alexander S. Diven, Chairman Grievance Committee; Harry L. Bogart, Chairman Necrology Committee; Michael O'Connor, Chairman Nominating Committee; John J. Crowley, Benjamin F. Levy and Lewis E. Mosher, Executive Committee.

The Audrain County (Missouri) County Bar Association re-elected Clarence A. Barnes, President; W. H. Logan, Vice-President; Martin Barrow, Secretary and Treasurer, and R. D. Rodgers, Sergeant-at-Arms.

The Muskegon County (Michigan) Bar Association elected Wallace Foote, President, at the annual meeting held on January 8. John G. Anderson was elected Vice-President and Joseph I. Sanford was re-elected Secretary and Treasurer.

The St. Joseph (Missouri) Bar Association elected John D. McNeeley president at its recent annual meeting. Other officers elected were J. B. Shackelford, first Vice-President; S. K. Owen, second Vice-President; O. W. Watkins, Secretary; W. J. Sherwood, Treasurer. John D. Boyer was elected a member of the executive committee.

The 15th Judicial District Bar Association of Louisiana elected the following officers at its annual meeting: President, J. G. Medlenka, Crowley; First Vice-President, J. R. Kitchell, Abbeville; Second Vice-President, Judge Wm. Campbell, Lafayette; Secretary and Treasurer, J. G. St. Julien, Lafayette.

The Hinds County (Mississippi) Bar Association elected the following officers at the annual meeting held at Jackson, Mississippi, on December 16: President, F. H. Lotterhos; Vice-President, Frank T. Scott; Secretary, L. Jiggitts; Treasurer, A. Y. Harper.

The Owensboro (Kentucky) Bar Association elected Wilbur K. Miller as President, Richard H. Slack as Vice-President, and Earl Winter as Secretary and Treasurer at its recent annual meeting.

The Crosby County (Texas) Bar Association recently organized and elected the following officers: Loyd A. Wicks, Ralls, President; Judge Green Harrison, Crosbyton, Vice-President; N. C. Outlaw, Ralls, Secretary-Treasurer.

Rules for Success

"An attorney seeking to specialize in corporation law, should wear clothes as near like those of the best-dressed local banker as possible. He should wear gold-rimmed nose glasses, hung round his neck with a broad purple or black ribbon, and when in action these glasses should be removed from nose at frequent intervals, using the thumb and forefinger of left hand for this purpose, leaving the right hand free for declamatory emphasis. A slight deviation from this rule is permissible when attorney wishes to impress client with the fact that his question is a perplexing one. In that case, the glasses should be held by ribbon in right hand and swung round in a circle, giving the impression that attorney's mind is so engrossed as not to be aware what his right hand is doing."—From address before State Bar Association of North Dakota.